UNIVERSITY OF PENNSYLVANIA

PRIVATE POLICE: WITH SPECIAL REFERENCE TO PENNSYLVANIA

JEREMIAH PATRICK SHALLOO

A THESIS

IN SOCIOLOGY

PRESENTED TO THE FACULTY OF THE GRADUATE SCHOOL IN
PARTIAL FULFILLMENT OF THE REQUIREMENTS FOR
THE DEGREE OF DOCTOR OF PHILOSOPHY

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PRIVATE POLICE

WITH SPECIAL REFERENCE TO PENNSYLVANIA

By J. P. SHALLOO, Ph.D.
University of Pennsylvania

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INTRODUCTION

The present study aims to present as much as could be obtained of the relevant information about private police. Obviously, there are gaps which may be filled later, when those in charge of private police organizations find it convenient and feasible to make available material which exists but which is now withheld for various reasons. At the least, this work may be regarded as a summary outline; at the most, a fair description of the development, the organization, the functions, and the problems of protective agencies that aid and supplement the efforts of public police, and whose existence expresses the convictions of private organizations and citizens as to the adequacy of modern public police service.

Necessarily, in dealing with so vast a subject, restriction of scope must be imposed. Believing that a fairly adequate treatment of such police organizations of one area was the most satisfactory method of analysis, with brief allusions to and descriptions of such police in other sections for purposes of comparison and illustration, the writer has attempted to examine the problem in Pennsylvania in such fashion as to bring out facts likely to be applicable to private policing wherever employed.

The writer is thoroughly aware that certain conclusions may be criticized. He feels convinced that private police are at the present time practically indispensable, but he also regards their existence as a legal anomaly, a constitutional contradiction. The term "police," connoting as it must delegation of power from the State or a creature of the State, implies a public character, just as "army" and "judge" connote public or State derivation. Yet herein are presented an array of privately paid and privately controlled police possessed of and exercising the same police powers as the highest law enforcing agents, with none of the restrictions in the exercise of that power imposed by duly constituted authority.

Although the point has never been raised, it is possible that certain types of private police—the coal and iron police, for example—may be unconstitutional. In Article XVI, Section 3, of the Constitution of Pennsylvania is the clause "and the exercise of the police power of the State shall never be abridged or so construed as to permit corporations to conduct their business in such manner as to infringe the equal rights of individuals or the general well-being of the State." Organized labor and many competent critics of the

system agree that police in mining regions legally or otherwise do in reality "infringe the equal rights of individuals," and since only casual supervision of such police is provided for by the Industrial Police Act of 1929, there would appear to be some grounds for such a contention.

The only satisfactory criterion of private police is *purpose.* For what purpose are they employed? If their employment is for the extra protection of private property, for which compensation is made by the employer, they are private police in the sense used in this study. This excludes deputy sheriffs, because in most instances compensation for services of deputies is made by the sheriffs, although the deputies are acting as police for private corporations. In this case the highest peace officer of the county is a sort of employment agent who collects his commissions for each deputy employed, but the deputies remain, at least nominally, under the control of the delegating agent, the sheriff. In the case of railroad police, the State grants the power but assumes not even nominal responsibility for their conduct.

The development of modern transportation and of the coal, iron, and steel industries, and the tremendous economic and social changes which have produced the modern city, have made private policing imperative. But, even so, the writer is convinced that police power should be conferred with a reluctant hand, and the empowering agency should never relinquish control without provision for the assumption of that control by some legally established tribunal charged with the supervision and discipline of private police. It is not too much to ask the State to assume its manifest obligation, and through duly appointed agents to tie in all private police under the direction and administration of the police department in whose area these are employed. If that is impracticable, some such bureau as the Bureau of Industrial Police should be established in the State Capitol which would be responsible for the appointment, the control, and the administration of all private police, whether railroad police or night watchmen. A unified, coherent scheme of organization, administration, and control would undoubtedly yield a more satisfactory type of service and insure a personnel of higher character and efficiency.

Perhaps the happiest task of any one engaged in research is the offering of his gratitude to those who have assisted him. The present study owes its origin and final preparation to Dr. Thorsten Sellin, Professor of Sociology at the University of Pennsylvania and Editor of The Annals of the American Academy of Political and Social Science. Without the financial assistance of the Academy, which granted the writer a fellowship, it is doubtful whether this

work could have been written. To Judge Michael A. Musmanno, of the Allegheny County Court, the writer is under abiding obligation for his genuine coöperation, sympathy, and encouragement while a member of the House of Representatives and battling almost single-handed for legislation designed to remove the defects of the coal and iron police system. Chief Marshall J. Booth, of the Lehigh Valley Railroad police, gladly permitted examination of his files and generously assisted the writer when the task seemed almost hopeless. Superintendent George W. Buzby, of the Pennsylvania Railroad police, spent many hours advising, suggesting, and informing the writer of the facts pertinent to his organization, and he also read and corrected the chapter on Railroad Police. General Superintendent H. L. Denton, of the Baltimore & Ohio police, furnished the information presented with reference to that system. Mr. Bruce Smith read the chapters on Railroad Police and Coal and Iron Police, and offered valuable suggestions. Numerous police officials, private detectives, labor leaders, coal and iron policemen, and students of this field have contributed to the work brought together here. To each and all, the writer feels his indebtedness. Whatever merit this volume may have belongs to them.

J. P. Shalloo

RAILROAD POLICE

CH. I. DEVELOPMENT AND PROBLEMS

Today perhaps more than ever before, the problem of railroad policing has become a major issue for the transportation systems of this country. From the famous "cinder dick" have evolved elaborate police departments comparable in complexity of organization and efficiency of operation to modern municipal police departments. The development has been relatively slow, and the evolution toward efficiency beset by hazards unknown to public police. Despite opposition from railroad employees, public police, organized labor, and the public generally, railroad police have come to occupy a place of first-rate importance among law enforcing agencies.

In the early days of their existence, severe and well-merited criticism was directed against railroad police. In their ranks were to be found a number of thugs, criminals, and other undesirable characters. In times of labor trouble the blackjack and the gun were far more effective than the courts. These police were more often than otherwise appointed for reasons best known to the captain of the division. Their duties appear to have been largely to spy upon their fellow workers, chase hobos, and prevent thefts from coal cars. It is small wonder that railroad police were almost universally known as "detectives."

The main problems for the railroad police from a strictly police angle were the train robber and the hobo. To be sure, they also were expected to protect the traveling public, but the spectacular exploits of the train holdup overshadowed the more prosaic business of routine duty. The migration of the hobo was exclusively by rail. Losses which must have totaled hundreds of millions of dollars were the work of hobos and train robbers. Even captains on the Baltimore & Ohio Railroad were ignorant of losses on their own or other divisions until 1919.[1] The railroad special agent and police, commissioned by the State for the protection of property, traveling public, and freight in transit, were the means developed to meet these necessities.[2]

The character of these early guardians of property and the public is well outlined by Mr. George Shea, Superintendent of Investigation, Canadian National Railways:

[1] *Proceedings of the Protective Section, American Railway Association,* 1923, p. 35.

[2] Flynt, Josiah, "Policing the Railroads," *Munsey's Magazine,* 22: 658–664, Feb. 1900.

Of course, there were some exceptions, and I do not want to detract from those efficient officers who spent their lives in this service; but the point I want to make is this: since the executives did not regard the service very highly, the wages were not very attractive; consequently, the positions were held by those who did not always enhance the reputation of the department. By this I do not mean that they were dishonest. Then pressure was brought, in many cases, by politicians and others who seemed to think that any man, regardless of physique or education, could become a police officer. From my own experience I know that trainmen and other employes, when they became too decrepit for other occupations, or when the city refused to have them in the street cleaning department, were still considered qualified for a police job.[3]

Such organized police departments as obtain today are of relatively recent origin. In the State of Pennsylvania, which is of chief interest in the present study, railroad police were authorized by legislative enactment in February 1865.[4] There has been no important legislative change in this state since the date of authorization. Prior to that date deputy sheriffs were employed, and this appears to be true for most states, although it should be borne in mind that watchmen also were used. It has been suggested that fear of raiding parties from the South following the Civil War was a contributory factor. The economic dislocation of the 1870's undoubtedly made special police imperative, as the number of unemployed increased and the hobo population turned to the railroad yards for transportation and loot.

According to Mr. L. F. Loree, railroad police were organized

> to protect the property of the company against carelessness, negligence, malicious mischief, depredations, and fire; to guard travelers against pickpockets, thieves, and gamblers; to guard the traffic from theft or "loss and damage"; to assist in gathering facts in cases of personal injury or other claims; to preserve order upon the premises of the company and upon its trains; to aid in quelling disturbances that might arise; and to uphold and enforce the law in so far as the company's interests might be involved.[5]

Doubtless what President Loree says is true of present-day police departments, but probably all of the above reasons do not deserve

[3] *Proceedings of the Protective Section, American Railway Association*, 1930, p. 121; *cf.* also *ibid.*, 1927, pp. 58–59; 1928, p. 79.

[4] Pa. St. 1920, Paragraphs 18,542–18,547. P. L. 225.

[5] Loree, L. F., *Railroad Freight Transportation*, N. Y.: D. Appleton & Co., 1922, p. 154.

See also "General Notice" in *The Baltimore and Ohio Railroad Company, Instructions Governing the Police Department, Effective July 1* (1923), p. 3; in *Lehigh Valley Railroad Company, Rules for the Government of the Police Department* (1910), p. 4; and in *Pennsylvania Railroad Company, Organization of Police Service, Requirements for Employment, Regulations, General Instructions* (1933), p. 3.

equal weight. Such an outline of functions, nevertheless, serves to emphasize the manifold duties, and something of their nature, which railroad police are expected to perform as a matter of routine.

From such general historical origins has developed the tremendous nation-wide, virtually continuous, organization of railroad police as it exists at the present time. In 1929 the number of railroad police was in excess of ten thousand,[6] and, conservatively estimated, the pay-roll costs represented an annual expenditure of at least eighteen million dollars.[7] This amount does not include salaries of private detectives or others employed in checking, spotting, and claim investigation.

Exact costs are impossible to secure even for the State of Pennsylvania, but pay-roll costs are available for enough railroads to allow reliable estimates. Salaries are roughly the same for various grades of police on all roads. In times of labor disturbances the costs mount rapidly. Merely to illustrate: During the shopmen's strike in 1922, the Baltimore & Ohio Railroad paid $1,250,000 for *extra* police. These additional police were hired for the eighty-six days of the strike, at the regular patrolman's rate of $187 per month. Normally, the total annual pay roll for this railroad system is only slightly in excess of $1,000,000.

It appears fairly clear that railroad policing is not a simple problem. It requires not only a tremendous financial expenditure, but also, because of its specialized nature, policemen who possess intelligence, knowledge, tact, and ability to think and act correctly in a crisis. A mistaken arrest by a railroad policeman when acting *as* a railroad policeman results in a suit for false arrest. The public policeman is much better protected by law. To the credit of the railroad police executives, the general character and ability of policemen on the railroads at the present time are uniformly high, and these men in no way resemble their illustrious hobo-chasing ancestor, the "cinder dick." [8]

Problem of robberies and losses

Concomitant with economic and industrial changes in the last thirty years are the changes in railroad police problems and the methods evolved to solve them. While the migratory worker has all but vanished as a railroad problem, the train robber has merely changed his mode of operation. Holdups of trains and robbery of

[6] Bayer, R. J., "An Army for Defense," *The Traffic World*, 44: 1043, Oct. 26, 1929.

[7] Allowing $150 per month per policeman, which is below the "average." See *Report on the Cost of Crime*, National Commission on Law Observance and Enforcement, No. 12, June 24, 1931, p. 353, n.

[8] *Proceedings of the Protective Section, American Railway Association*, 1927, p. 137.

passengers and mail cars have shown a slight increase in the past two years, but high-speed trains and protective devices have contributed to the decrease of losses due to such offenses. Robbery losses today appear to be less obtrusive and more difficult to detect and trace. Concealed losses and robberies have given rise to serious attempts to develop a car seal which will eliminate losses sustained by pilferage as freight cars stand on a siding or while water is being taken on in rural sections.

That there is need for improved protection may be seen from the fact that a thirty-days' test at an important terminal on one of the large railroad systems revealed that 55 per cent "of all equipment arriving at that terminal under, and for, merchandise loading, could be opened and robbed without breaking a seal or leaving any trace of such robbery." [9]

Not only is it possible to rob freight cars in isolated areas, but at piers, depots, and yards dishonest employees in collusion with checking clerks and teamsters add to the losses and the difficulties of detection and apprehension.[10] How much loss is attributable to collusion cannot even be estimated, as many roads prefer not to prosecute, but simply discharge the employee when irrefutable evidence is obtained.

Needless to say, a very definite selection of goods is made by thieves. It appears that intrinsic value is less a determinant of selection than ease of disposal and difficulty of tracing. For this reason dry goods, tobacco, boots and shoes, and automobile parts are pilfered, in that order. Comparing losses in these commodities for 1921 with those for 1930, we have the following:[11]

	1921	1930
Dry goods	$4,715,000	$483,000
Tobacco	2,809,000	419,000
Boots and shoes	1,849,000	99,000
Automobile parts	1,013,000	79,000

Losses in the first three categories were due (in 1922) in 85 to 90 per cent of the cases to the movement of goods in less than carload (usually referred to as "l. c. l.") shipments.[12] Unquestionably the practice of shipping goods in assorted varieties, which obtains in

[9] *Proceedings of the Protective Section, American Railway Association*, 1923, p. 57.
[10] *New York Times*, March 17, 1922, p. 19. Several police on the New York Central lines were indicted for larceny of $6,000,000 worth of goods.
[11] *Proceedings of the Protective Section, American Railway Association*, 1931, p. 57.
[12] *Ibid.*, 1923, p. 113.

such shipments, multiplies the possibilities of loss and robbery. Since such movement of goods involves a larger number of persons who have access to the freight car than do solid car lots consigned to a specific destination, difficulties of tracing are also increased. In car lots the cars are continuously sealed in transit, and one checking is sufficient. If seals are broken it is much easier in the latter case to determine on what line the breaking occurred and approximately at what time and place, and thus render investigation, apprehension, and recovery more effective and certain.

Since 1920, when the Protective Section of the American Railway Association was organized, through 1929, total robbery payments showed a decrease of 92.7 per cent.[13] During 1930, however, an increase took place. The following table shows the value decreases, year by year, through 1929, and the increase in 1930.

TOTAL ROBBERY PAYMENTS [14]

Year	Amount
1920	$12,726,947
1921	9,924,747
1922	4,806,710
1923	3,117,484
1924	2,333,393
1925	1,492,451
1926	1,314,501
1927	1,151,136
1928	928,563
1929	704,267
1930	950,718

Total freight claim payments in 1920 amounted to $119,833,127, while in 1928 they totaled $36,557,243. In 1920 robbery payments were 10.3 per cent of the total claim bill, while in 1928 they were 2.5 per cent. Total freight claim payments for 1930 were $36,239,640, "the lowest in sixteen years." [15]

The question arises as to why the robbery losses have declined so sharply in the eleven-year period shown. Many theories have been projected. Heads of railroad police departments believe that the National Prohibition Act lured car thieves into the more lucrative and relatively safer field of bootlegging.[16] Increased efficiency of

[13] *Proceedings of the Protective Section, American Railway Association*, 1929, p. 26.

[14] *Ibid.* Figures for the years 1929 and 1930 taken from *ibid.*, 1931, p. 70. See also Wickersham Report, *op. cit.*, p. 389. The first quarter of 1931 showed a continuous increase in robberies.

[15] *Proc. of P. S.*, 1931, p. 62.

[16] *Ibid.*, 1929, p. 139.

the railroad police has probably not been a slight factor. Improved methods of protection such as car seals, car riders, and the practice of loading value shipments under heavier and less valuable goods in l. c. l. shipments have been important. The changed mode of travel by migratory workers also has to be considered. The change of attitude toward railroad police by courts and public police has played some part. The greatest single factor making for decreased robberies, however, has probably been the improvement in police personnel.

During 1928 the railroads of the United States handled 51,700,000 carloads of revenue freight.[17] The total theft claim payments amounted to less than one tenth of one mill per package handled, according to Mr. A. L. Green of the Freight Claim Division, American Railway Association.[18]

Something should be said about valuable shipments, such as silk, cigarettes, alcohol,[19] and bullion. A great many methods have been tried to prevent losses of these commodities. We have seen that car seals are only moderately effective. A number of police executives are of the opinion that the only protective device that effectively prevents robbery is a policeman riding the train, armed with a riot gun or a machine gun and gas bombs. All these are in use at present. The Lackawanna Railroad, for example, protects "these trainloads of silk with officers equipped with riot guns. So do . . . the Wabash, the Grand Trunk, and other roads. . . . The Nickel Plate protects them." [20]

Car riders are usually employed on solid car lots and are stationed either atop the car or in the last car. In the case of l. c. l. shipments too great an expense is involved to provide car riders. Both the Pennsylvania and the Baltimore & Ohio in such cases load silk into cars first and pile other freight on top of it. As Superintendent Denton of the Baltimore & Ohio points out: "It would be necessary for them [thieves] to move fifteen or eighteen tons of other freight to get the commodity they wanted, which would not be practicable." [21]

[17] *Proceedings of the Protective Section, American Railway Association*, 1929, p. 30.

[18] *Ibid.*, p. 39.

[19] *New York Times*, March 17, 1922, p. 19. From January 1921 to March 1922, twenty-three robberies of liquor cars totaling $750,000 claims were reported.

[20] *Proceedings of the Protective Section, American Railway Association*, 1928, p. 97. An investigation revealed the existence of a gang of silk thieves operating in Jersey City. Employees in the freight or switching services were in collusion with them. Through some other employee, the gang was tipped off as to the car numbers and upon arrival thieves and employees coöperated. One method used by confederates was to hang a necktie on the steps of the car containing silk. *Ibid.*, p. 100.

[21] *Ibid.*, p. 98.

At water tanks and sidings, particularly at night, car thieves break open cars and throw bales of silk, shoes, and other commodities into the brush along the right of way. This may be picked up later by accomplices and easily disposed of.[22] The New York Central Railroad has built vaults in the yards where silk trains come in. In Buffalo a man is on duty constantly to protect the silk.[23]

Methods of protecting silk shipments have been summed up by W. T. Dinneen, Chief Special Agent of the Chicago & Northwestern Railway. He claims that car riders are the best insurance for time freight in transit—by placing a competent rider in charge and holding him strictly responsible for losses, and by requiring all riders to report early enough so that seals may be inspected and high-class merchandise cars located. Riders travel on the outside of the train except in unusual weather, and keep close watch on the sides of the train. At every stop the rider thoroughly covers the train, and all persons except the train crew are kept away from the cars. The rider orders the conductor to wire headquarters at the first telegraph stop if merchandise is observed being thrown from the train, while the rider gets off the train and returns to the point where the goods were thrown off. Daily reports are made by riders, covering everything in detail. Semi-monthly meetings of all riders are held and problems discussed. Revolvers of not less than .38 caliber are carried. At the time these instructions were given, twenty-five car riders were working out of Chicago on the Chicago & Northwestern. All the above instructions were used by this road.[24]

Perhaps sufficient has been said to make plain the difficulties of preventing thefts of valuable shipments. Cigarettes and jewelry are equally difficult to protect. Repeated attempts have been made to secure tobacco manufacturers' coöperation for the use of a specific mark on cigarettes so that they might be traced. To date, nothing has been done. Flood lighted yards, watchmen, car riders, riot guns, improved seals, and so on, did not prevent $343,000 worth of entire packages of cigarettes from disappearing in 1927.[25]

In order to meet the problem of robbery more effectively as well as to assist each other, railroads, though not all of them, make use of what is known as the Inter-Line Robbery Report. This consists of a report of the police department of the connecting line, setting forth the robbery [26] of the inter-line shipment. It states the station

[22] *The Record* (Philadelphia), May 22, 1931, p. 3.

[23] *Proceedings of the Protective Section, American Railway Association*, 1928, p. 99.

[24] *Ibid.*, 1923, pp. 67–69.

[25] *Ibid.*, 1928, p. 37.

[26] The term "robbery," as used by railroads, includes losses resulting from criminal activity such as thefts, burglaries, etc.

from which the goods were checked, giving date, time, and whether robbed or short; the car initials, number, and where carded from; consignee, and consignor; general condition of car doors, fastenings, floor, roof, and so forth; description of seals; all information as to waybill reference; and, finally, articles robbed or short.

The connecting line knows definitely under such conditions that the robbery or shortage is an off-line offense. Reference to the line on whose rails the offense occurred facilitates a check-up and allocation of loss to proper railroad or police department to investigate. There is no evidence that the use of the Inter-Line Robbery Report reduces claim payments, but it is evident that it helps to determine the railroad responsible, in the police sense.

Every railroad police department has on file the photographs of known car thieves, as well as a description of their methods of operation. These departments are also informed of the release of convicts who have robbed railroads. The presence of pickpockets and jewelry thieves is also known and a careful watch is kept to prevent their activities. The inauguration of the "News Letter" by the Protective Section of the American Railway Association made possible information with reference to police problems and robberies on other roads.

Problem of trespass

Obviously, no freight robbery on a railroad can occur, unless by employees, without trespass. The railroad right-of-way appears to hold a peculiar fascination for thousands as a highway. Despite the repeated warnings against and fatalities resulting from walking railroad tracks, they are constantly used as short-cuts. Probably the most serious trespass problem is the juvenile. Chief Powell of the Reading Company claims that "the boy" is his railroad's greatest problem. The usual procedure in cases of trespass is simply a warning by the police after the first offense. Repetition may result in arrest. Loitering around stations, yards, shops, or riding on freight cars around switching areas are listed as trespass. Trespass is not a serious offense, but the possibilities of death are great. Further, trespass is likely to be accompanied by petty thieving of wood, coal, journal brasses, and other goods.

The railroads have coöperated with the National Safety Council in an effort to reduce the mortality rate resulting from trespass. In 1923, 2,779 persons were killed while trespassing, and 3,047 were injured; while in 1928, 2,487 were killed and 2,367 were injured.[27] In the first nine months of 1932, deaths of trespassers totaled 1,938, and 3,034 were injured, "as compared with 1,837 and 2,602 during

[27] *Proceedings of the Protective Section, American Railway Association*, 1930, p. 61.

the same period of 1931. The percentages of increase were 5.5 and 16.95." [28]

In an effort to make clear the hazards of trespass, railroad police —for example, those of the Lehigh Valley Railroad and the Reading Company—are regularly assigned to address high school assemblies on the dangers of using the railroads as playgrounds and highways.

The assertion of Major R. G. Chamberlain, Chief of the Bureau of Investigation of the Canadian Pacific Railway, appears to be correct:

> If the railways prosecute trespassers, the culprits look on the matter as a form of persecution, seeing that they are not doing any particular harm to the railways. On the other hand, if some highly respected citizen is killed by a train while walking on the tracks, the railway is condemned for allowing persons to walk on its tracks.[29]

At the annual meeting of the Protective Section of the American Railway Association, Chief Special Agent T. T. Keliher, of the Illinois Central system, delivered a paper on the "Problem of the Juvenile Delinquent." He pointed out that railroads suffer not only loss and damage to their property, but also derailment of trains and financial loss in damage suits for injuries and death resulting from "juvenile trespassers upon their right-of-way." The children, when found, are usually questioned, their names and addresses taken, and their parents notified. The railroad police often accompany the boy to his home and try to impress upon parents, as well as his teachers, the necessity for closer supervision and the imperative duty of keeping children away from railroad yards and tracks.[30]

Problem of passenger protection

It is evident that whatever arguments may be advanced in favor of public police protection for railroad property, protection of passengers traveling over the rails is a totally different matter, and here, if anywhere, special police are necessary. It may be stated categorically that every railroad has police, or agents, assigned to ride passenger trains, and that at least a part of their job is to safe-

[28] *New York Herald Tribune*, Jan. 17, 1933, p. 7.

[29] *Proceedings of the Protective Section, American Railway Association*, 1923, p. 114. Mr. Chamberlain lists the following "four distinct purposes" of railway police: (1) "To guard the property of the railway company from trespassers. (2) To maintain order among the passengers. (3) To guard the property of the railway company in case of strikes or labor disturbances. (4) To protect from theft freight intrusted to its care for transit, also its own equipment." The last mentioned he regards as "most important." *Ibid.*

[30] *Proceedings of the Protective Section, American Railway Association*, 1930, pp. 45–46.

guard the rights and interests of travelers. Gamblers, pickpockets, drug peddlers, "mashers," swindlers, drunks, boisterous and disorderly persons, prostitutes, baggage thieves, and petty thieves of railroad property are segregated and given special attention. Excursion trains, especially race-track trains, are likely to carry many of the above. The police are in plain clothes and rarely "make a pinch" until the evidence is fool proof. Even then, conviction may not result. In fact, in cases where a person has been fleeced by a smart card sharp, he usually complains loudly to the railroad, and when the road has sufficient evidence to convict, the complainant promptly "goes to China" or somewhere equally as accessible for court purposes, leaving the railroad police with an excellent piece of experience but no complainant to appear against the offender.

There appears to be a widespread belief that the railroad conductor has police power. Except in specific cases, this is not so. He must "repress tumults as far as he reasonably can, and he may, on extraordinary occasions, stop his train and eject the unruly and tumultuous. But he has not the authority of a peace officer to arrest and detain offenders." [31]

On March 12, 1866, the Pennsylvania legislature passed a bill which may be summarized as follows: Conductors on trains passing through Erie and Crawford Counties were empowered to arrest and deliver to constables or proper authorities in Erie and Corry, or in Titusville and Meadville, any person apprehended stealing, pocket-picking, or disturbing the peace on trains passing through these counties.[32]

A later statute dealing with the police authority of railroad conductors was passed on May 19, 1913, and provided that

> it shall be the duty of any conductor, in charge of any passenger train on a steam service railroad, to arrest on view any person so conducting himself in a disorderly manner in such train, and to deliver such person into the custody of any constable or any police officer in the county, who shall forthwith deliver such person to the keeper of the proper jail or prison or lockup to await a hearing, as aforesaid.[33]

It may be seen that the power delegated here does not contemplate delivery to the lockup by the conductor, but rather presents a case of limited custodial power, to terminate upon arrival of the proper public police officer. Doubtless inability to locate such officer would not prevent delivery to the place of confinement by

[31] 55 Pa. St. Repts. 212. *West Chester & Philadelphia R. R. Co.* v. *Miles;* also 53 Pa. St. Repts. 512. *The Pittsburgh, Fort Wayne and Chicago Ry. Co.* v. *Hinds.*
[32] Pa. St. 1920, Paragraph 8018. P. L. 182, Paragraph 3.
[33] Pa. St. 1920, Paragraph 7801. P. L. 223, Paragraph 1.

the railroad conductor, but this point has not been considered by the courts. Implicit in these two acts is the intent that the conductor's official character and his responsibility for the safe passage of travelers shall constitute the criterion of temporary police power.

Thefts by passengers

A word may be said about pilferage by travelers. Every one is familiar with the losses suffered by hotels through disappearance of towels and bed clothes. Sleeping cars and washrooms suffer in much the same fashion, and probably much more, since there are more of them. Goods taken by patrons consist of sleeping-car blankets, towels, sheets, tools (these are usually marked), electric fittings, copper wire, plush as used on seats, and sleeping-car curtain materials. Many of these goods, especially blankets, towels, and sheets, are found in boarding houses and resorts. The exact loss is unknown.[34]

Problem of dishonest employees

The annual reports of arrests issued to member roads of the Protective Section of the American Railway Association include the number of employees arrested. The number is small in relation to the total number of arrests, but the difficulties of detection and apprehension give this particular problem a character that calls forth ingenuity on the part of the police. It will be recalled that one of the reasons for the unpopularity of railroad police in the early days of their development was the spying upon fellow employees. Every railroad policeman represented a kind of spy, and still does. His job, even now, consists in large measure of eliminating practices which have become a part of the railroad "game." If the dishonest conductor, brakeman, or ticket agent can aggrandize himself by converting tickets or omitting receipts for cash fares, no specific person is being robbed. Stockholders have a vague sort of existence and are not usually fellow workers. To cheat a fellow employee would be unthinkable; but the railroad corporation is an entirely different matter, and any person who would report such cheating, inasmuch as he loses nothing, deserves only contempt. Such is the usual rationalization.

In order to maintain railroad receipts at a level equal to the amount of business actually done, whether freight or passenger revenue, every railroad has found it necessary to assign members of the police department in plain clothes as members of the crew, or persons hired specifically to "check" trains and "check up" employees. This differs, obviously, from industrial undercover

[34] *Proceedings of the Protective Section, American Railway Association*, 1923, p. 117

work, where the object is to learn not who is thieving, but what labor is thinking and planning.

It is a short time since one of the large Eastern systems discharged forty-eight members of the train service for conversion of tickets. In this case the collectors, brakemen and conductors, simply failed to cancel and turn in the tickets taken from patrons. By reselling these to a syndicate which later sold them to the public at less than ticket-office prices, a large amount of revenue was lost to the railroad.[35] In another case, the chief of police of an Eastern system rode the top of a passenger train and observed a conductor, twenty-five years in the road's employ, disposing of uncanceled tickets to a woman at one of the regular stops.

Losses through such channels cannot always be located and known, but some conclusions may be drawn. Not all employees are discharged for dishonesty, but perhaps a majority of those handling revenue who are dismissed are charged with dishonesty.

Besides defrauding the railroad, cases of smuggling aliens from Canada have been investigated through police departments. Such a case occurred a few years ago. The train leaving Niagara Falls on certain days regularly carried a number of Chinese to New York in the baggage car. The conductor received fifty dollars in gold for each Chinese. It was estimated that at least $50,000 had been received by this conductor before he was apprehended.

One of the more celebrated cases was the famous lumber case investigated by the Lehigh Valley and other railroad police departments about twelve years ago.[36] In this instance a dishonest yardmaster passed on carloads of lumber bought by the railroad for cooperage of grain cars. The cars were apparently filled, but examination revealed only one tier of lumber against the door from the floor to the roof. The road paid for 24,000 feet of lumber in each car, when in reality only 600 feet were shipped in each car. Through police investigation this practice was exposed. Curiously, the yardmaster is still employed by a railroad.

Before any action is taken by the road, the employee must be observed by at least three investigators working independently and unknown to one another. When sufficient evidence is gathered and the several reports buttress one another, the employee is called to the police headquarters and is questioned. Unless there is more

[35] *Proceedings of the Protective Section, American Railway Association*, 1931, pp. 153–155.

[36] This was the Shingle Mills Selling Company of North Tonawanda, New York, a dummy agency of one A. K. Silverthorne, which in 1919 was sued in the Federal courts for defrauding the Government. The railroads were then under Federal administration. The result was a judgment in favor of the Lehigh Valley Railroad. See *Buffalo Enquirer*, May 18, 1922; also *Buffalo Express*, May 19, 1922.

than railroad loss involved, and if the amount is not too great, he is simply discharged. If he wishes a trial he may have it; but since conviction is almost certain, he usually disappears quietly from the service. There is never any publicity. It will be seen that if the property is recovered, prosecution by the railroad would involve financial loss as well as diversion of police man power for that purpose.

Problem of claim investigation

Possibly more time is spent by certain roads in claim investigation than in any other type of work. The management looks to the railroad police department to keep down claim payments, whether from robbery, damage, or shorts. A careful examination of a claim presented often means its elimination. The following analysis, taken from the files of the police department of the Lehigh Valley Railroad, indicates the various ways in which claims are handled. Of a total of 763 claims presented, the Lehigh Valley police eliminated 155, effecting a saving of $8,641.12 for the year 1930.

Short under shippers' seals	43	$1,853.72
Short under foreign line seals	39	2,037.34
Located at company or other warehouses	16	1,133.38
Amended account police investigation	9	534.80
Withdrawn account police investigation	20	1,244.37
Delivery to connecting line proved	1	20.46
Delivery to consignee proved	3	96.99
Short prior to reaching Lehigh Valley rails	15	867.36
Pilferage under shipper's seals	1	16.50
Delivery to steamship company proved	3	316.75
Loss and damage prior to reaching Lehigh Valley rails.	1	58.03
Refund obtained of amount paid	2	32.95
Liability placed with lighterage company	1	237.35
Duplicate claim	1	191.12
Total		$8,641.12

The table on the following page is a summary of claim investigational activities by the Lehigh Valley Railroad police for the years 1919 through 1932.

While freight claims constitute perhaps the greatest number of investigations required of railroad police, there is another type of investigation which causes much difficulty and loss. Claims for injuries by passengers and employees impose a duty upon police which is not easily met. There is no way to secure information as

to the number of false claims entered against railroads, but heads of departments make it clear that in a large number of cases police investigators have saved thousands of dollars by showing that the person who claimed damages as a result of personal injury, suffering, and loss of time was not seriously injured, and in fact lost no time from work. This is especially the case in wrecks and in cases for damages arising out of falls from cars in motion or trains that have stopped and suddenly started again. Persons slightly injured on railroad trains or on busses operated by railroads would never entertain the thought of suit against a taxi driver, but feel no hesitancy in proceeding against a railroad, since no single individual appears to be liable.

Year	Claims Investigated	Claims Eliminated	Grand Total Claims Eliminated and Property Recovered
1919	1,717	381	$244,870.79
1920	2,258	560	227,386.78
1921	1,743	669	179,958.24
1922	980	206	42,129.87
1923	761	185	35,576.51
1924	944	264	31,549.56
1925	825	170	42,182.76
1926	762	154	19,059.20
1927	686	145	16,643.67
1928	654	132	14,051.99
1929	768	194	29,200.22
1930	763	155	15,262.70
1931	694	125	15,341.27
1932	726 [a]	56	8,148.51
Total	14,281	3,396	$921,362.07

[a] Including 253 coal claims.

Baggage claims are another type of investigation which falls within the scope of departmental activity. In the case of express companies and loss of trunks, coöperation is secured from the police department of the road over whose rails the trunks were shipped. Baggage carried on fare tickets is often delivered to the wrong person. This easily occurs where no identification beyond possession of the check is necessary. Further, exaggerated value may be claimed, regardless of the regulation that only so much value can attach to such baggage. Baggage thieves appear to have dimin-

ished numerically in recent years. This may be due to a closer supervision of baggage, a better selection of employees, or a movement of thieves into other fields, or perhaps all three.

General duties

Besides the specific and obvious duties outlined above, the railroad police perform many tasks little realized by the general public. The supervision and guardianship of demented persons must be undertaken by the police while these are in transit. Police must ride the deportation train which makes a monthly trip to points of embarkation. The protection of the President of the United States is a particularly important job, and the tradition that the chief of the railroad police shall ride the Presidential train gives some idea of the responsibility attaching to this duty. Children who are lost or who have run away from home must be cared for. Distinguished visitors must receive special attention. The pay car must be guarded. Prisoners in extradition must be accompanied.

Perhaps the variety of duties performed by railroad police can best be set forth by quoting from a letter sent by Superintendent of Police G. W. Buzby, of the Pennsylvania Railroad, to General Manager R. K. Rochester, March 26, 1931, when a request was made for an increase of the police department:

> Thirty to 40 per cent of the man power is assigned to such duties as supervision, clerical work, collections, consisting of fares, payments for damage to property and equipment, passes and equipment from employees who have left the service, accompanying demented persons, checking employees who fail to report for duty, riding excursion and special trains and investigation in general classified as follows: personal injuries to patrons, employees and others, train wrecks, baggage claims, freight claims, package shipments and milk shipments, fires, employees failing to meet obligations to Provident and Loan Associations, losses by and thefts from patrons on trains and in stations, disappearance of passengers on trains and in stations, stone throwing and shooting at trains, tampering with equipment, signals, switches, etc., misuse of passes by employees and others, complaints concerning card sharps, confidence men and pick-pockets operating on or about trains and stations, activities of solicitors among shippers for donations, etc., anonymous letters, robberies of freight cars, cabin cars, stations, shops, enginehouses, etc., theft of telegraph, telephone and bond wire.
>
> Also, a large part of their time is spent
>
> in handling matters before Justices of the Peace, Magistrates, Police Recorders, Grand Jury, Criminal court, coöperating with city, county and State authorities.

On some lines investigation of wrecks is handled by the mechanical department unless evidence of maliciousness is found, in which case the police also investigate.

Investigation of anonymous letters is usually carried on quietly by the police. Railroad presidents are often the target for cranks who threaten to wreck trains. Demands for money are often made. Such a case occurred on the Pennsylvania system a year or two ago. The letter was typewritten. A second letter was written in longhand. Both came to Philadelphia on the same train from Altoona on different nights. An examination of pay receipts at the Altoona shops established the identity of the writer. Superintendent of Police G. W. Buzby located the typewriter. Both letters were from a former employee. Of course, the actual investigation is not so simple as outlined above, but requires long hours of patient investigation. Often railroad police departments refer their cases to the proper experts in the municipal police department.

It would be tedious and unnecessary to extend the list of duties imposed upon railroad police. Sufficient has been said to indicate the multiplicity of duties which appear in the normal routine of police work. Besides these specific duties imposed by the restrictive nature of their work, such broad general functions as enforcing the law and protecting property are taken for granted.

CH. II. ORGANIZATION AND ADMINISTRATION

We have seen something of the development of railroad police and the duties they perform. It might be well at this point to inquire how they are organized to meet their problems. In a general way, all police departments are similar in organization. There is a superintendent of police, on some lines called the chief of police, on others chief special agent, or simply special agent. The official to whom these are responsible varies. Some report to the operating vice-president, who is generally regarded as the proper official for this work; others report to the general manager, as on the Pennsylvania system. Others, as in the case of the Reading Company, are largely under the Claim Division. Needless to say, on all roads the police department is under the control of some higher department or official.

Authority in the police department descends from the executive in general charge through a line of officers ending with the "roundsman." Immediately under the vice-president is the chief, below whom are inspectors (though some lines do not have this office), whose duties are largely supervisory and advisory. They visit the various divisional units and at times take charge of specific activities, such as labor troubles. Below these are the officials directing the police work as defined by the superiors—the captains. The location of a captain depends upon several factors, such as density of population, location of important terminals, tradition, freight yards, junctions, and so forth. These officials are responsible for the police work of the area in which they are located, and report to division superintendents and also to the superintendent of the police department. Their immediate subordinates are the lieutenants (and here again some roads do not have this classification). Their function is the supervision of the police in the duties and the areas to which they are assigned. The sergeants sometimes do actual patrol work or work with captains and lieutenants in claim and other investigational work. Lieutenants and sergeants are often assigned to ride certain trains, and special trains are also sometimes supervised by the captain himself, even as the Presidential train is the particular concern of the chief of police.

At the base of the organizational pyramid is the "private" or patrolman, sometimes referred to as a "roundsman." His duties have been set forth above. Others in the department, who do not

fit into the hierarchy but rather perhaps illustrate the line or functional principle, are the host of clerks who are charged with record keeping and correspondence. From the functional point of view these are quite as necessary as the other members of the department. Preparation of cases, compilation of reports, custody of records, and, in general, office organization constitute their duties and at the same time define their place in the system.

Two other categories under the control of the department should be mentioned: the watchmen and the undercover men. Watchmen assigned to crossings or buildings, while nominally members of the department, do little actual police work beyond guarding buildings against fire and robbery. The crossing tender often has no police authority, but if he has, his superior officer is the captain of police in charge of that division.

The undercover men will be treated more extensively in the section on detectives. The railroad undercover activity is extremely difficult to analyze. If one gains information of value from police chiefs, he is so sworn to confidence that he cannot use it. The present writer has much information about specific roads, but such information was given with the promise that specific agencies and methods remain secret. The reason for this is perfectly clear and in most cases is justified.

All railroads use checkers and undercover agents. The Baltimore & Ohio, for example, is fully apprised of what is going on in all shops and among its employees at all times. Some other railroads use private agency men, while the Baltimore & Ohio has a secret crew for this purpose, with a special budget. These men report directly to the general superintendent of the Baltimore & Ohio police and are unknown to any one but the general superintendent. The policy of the Baltimore & Ohio is to use no private detectives. The Lehigh Valley likewise uses no agency men. In general, in late years, with the development of the company union and the strengthening of police departments, fewer agency men are being used. Intelligence services are being, or have been, developed for this purpose.

It is the policy of some roads to withhold prosecution of an employee who has been detected committing an offense, and to put him to work in some department where offenses are being committed. This belief that a thief is more likely to catch a thief is only superficially true, and may result in greater expense. The respect of the rank and file of railroad employees for the police is hardly increased when it is learned that an offender has been "planted" to get evidence. It is particularly difficult to "plant" any one in the various railroad departments functioning under the rule of seniority. This

form of tenure also makes the labor spy almost worthless unless he is a regular employee of fairly long service.

Of course, labor troubles may be obviated by discharging the agitator or organizer, but the wise and more economical as well as more ethical scheme would be one which would eliminate the need for secret plans or agitation on the part of employees. If the management has a right to know what the rank and file are planning, and if the police department should be a "second pair of eyes" for the president, then the reverse is also true—the employees should have a right to know what the management is planning that may be of vital significance to them from the standpoint of wages, hours, and tenure. Nevertheless, we may say that undercover work at present exists on all lines for various reasons, and in a general way is necessary for the efficient operation of the railroads. The wisdom of using employees to spy on their fellows may be questioned, but the experience of railroads using private detectives has proved to their satisfaction that agency men are expensive, inefficient, and, generally speaking, of small value to the railroad.[1] Some railroads still use them for special work.

Protective Section of the American Railway Association

The necessity for some definite organization which would integrate all railroad police of the Nation into a militant, unified body, both to improve the methods of work and reduce losses, and to provide a technique for exchange of knowledge between member roads of problems and methods of solution, led to the formation of the Protective Section of the American Railway Association in 1920. The general chaos in railroad police work, as well as the tremendous claim bill and increase in offenses against railroads which accompanied the return to private control following the war period, made the development imperative. Losses in 1914 through robbery and theft for which the railroads actually paid claims were $1,943,410, while in 1920 the payments had risen to $12,726,947.[2] An analysis of claims arising from robberies on fourteen principal Eastern railroads during the two years of Federal control showed an increase of 773 per cent, according to A. L. Green, Special Representative of the Freight Claim Division, American Railway Association.[3]

The first attempt to organize the protective departments of railroads occurred on April 30, 1896, when a few special agents, influenced to some extent by the experience they had undergone in the

[1] *Proceedings of the Protective Section, American Railway Association*, 1927, p. 127.

[2] *Ibid.*, p. 33. Statement of R. H. Aishton, President of the American Railway Association.

[3] *Ibid.*, 1928, p. 54.

famous Pullman or Debs Strike of 1894, met at the Savoy Hotel in Kansas City and organized the Railway Association of Special Agents and Police of the United States and Canada. This organization carried on with more or less success until the year 1916. During the next four years there was no national organization and there were comparatively few regional organizations.

The Protective Section has a regular staff of officers and committees, but necessarily the bulk of the work is carried on by its secretary. The Section functions through thirteen regional organizations, each holding two meetings a year. These meetings are attended by delegates selected by heads of railroad police departments, but no delegate may attend both meetings in the same year. Those selected may be patrolmen or officers. Out of these regional meetings representatives are selected to attend the annual meeting of the Section.

The Protective Section compiles statistics of arrests on all member lines, furnishing monthly, quarterly, and annual reports. These are sent to the presidents of the several lines and to the police departments. The Section works with the departments with reference to police legislation through committees.[4]

The degree to which police departments coöperate may be seen from the organization of the Protective Section. Every official of the Section, with the exception of the secretary, is a railroad police official. Through the medium of the annual meeting a great deal of valuable information is given. The old notion of paying attention only to the immediate problems of police work has given way to a broader conception of understanding human behavior, as many subjects listed for discussion at these meetings amply demonstrate. One illustration will be sufficient to show the general interest. At the 1929 meeting Chief Inspector F. Fitzpatrick, of the Nashville, Chattanooga & St. Louis Railway, delivered a paper on "Heredity as Related to Crime and Progress."[5] The Sections have been addressed by supreme court justices, mayors, and police commissioners of the cities where the meetings have been held. Heads of crime laboratories have also been speakers before the meetings, and many of these have been elected to honorary membership.

Local organizations also have been formed in some areas. For example, the Buffalo Terminal Association of Railway Police was organized in 1922 to break up thieving. Meetings are held once a month, with all police officers down to the rank of sergeant in-

[4] *The Traffic World*, 44: 1046–1047, Oct. 26, 1929.

[5] *Proceedings of the Protective Section, American Railway Association*, 1929, pp. 94–101.

cluded. The Chiefs' Committee handles problems which prove too difficult for the Association.[6] Subordinates such as sergeants, lieutenants, inspectors, and supervisors were similarly organized as the New York & New Jersey Railroad Police Association.[7] Such an organization also exists in New York.

Qualifications of police

As has been pointed out, the early railroad police were generally nondescript and very little was known of their history. If a guard was needed and an applicant appeared, he usually got the job if he "looked" all right. There was no investigation beyond a few perfunctory questions addressed to the applicant. The result is generally known. Thieves, criminals, and other undesirables were given guns and clubs and told to enforce the law. The fact that they did not know what the law was made no difference.

Today there is definite selection of police, and a thorough investigation of applicants is made. Some railroads insist on a long-term listing of former occupations, and these are checked by correspondence with the organizations for which the applicant claims he worked. On some roads previous employers are interviewed. Not only must an application be filed, but photographs are required. These are compared with those in the railroad gallery, and wanted fugitives are sometimes apprehended. Two or three citizens who have known the applicant must furnish recommendation. Some departments require fingerprints of those employed as police. The New York Central Lines furnish an example.[8]

The present care exercised in the selection of police is well outlined by Vice-President Galloway of the Baltimore & Ohio Railroad:

> Great care should be used in the selection of men for employment in the police department. First, they should be of good character; second, intelligent; and third, physically qualified to handle such emergencies as may arise in their occupations as police officers. I do not feel that I can lay too much stress on the requirements and the need for careful selection of men. After they have been selected according to standards as outlined, the next most important thing is to see that they are properly instructed into their duties. In days gone by, I am advised that it was frequently the case when a police officer was employed, to give him a badge and turn him loose to use his own judgment as to what his functions were and how he should execute them. Inasmuch as the railroad police officer has a multiplicity of duties and deals with employes of the railroad and the public, it is essential that he be carefully instructed as to what his duties require him to do. An overzealous policeman can bring about much criticism of his conduct. This feature should be carefully guarded against.

[6] *Proceedings of the Protective Section, American Railway Association,* 1928, p. 74. [7] *Ibid.*, p. 72. [8] *Ibid.*, 1923, pp. 100–101.

He should at all times conduct himself with decorum and when a situation is most trying he should be at his best, being reserved and unexcitable. By proper instruction these things can be acquired by a police officer and be made a better representative of his company and a more creditable police officer.[9]

W. W. Morrison, Superintendent of Police of the Atlantic Coast Line Railroad, speaking before the annual meeting of the Protective Section of the American Railway Association on "Organization of Railway Police or Special Service Departments," made the following observations:

In selecting the personnel of a department too much care cannot be exercised in determining the qualifications of an applicant, and in the order named:

First: Character.
Second: Moral courage.
Third: Judgment.
Fourth: Education.

Character is the keystone qualification, for in that virtue the public places its confidence in the officer. The more perfect the life of the policeman, the more perfect the organization, the better the department can work and exert its good influence on those with whom it comes in contact. . . .

In former years it was the custom to hand the newly appointed policeman a badge, a revolver and club and send him out to work without further instructions as to the laws or how to enforce them, or how to make an arrest. In such cases the new appointee frequently makes an arrest without proper justification and renders himself liable to prosecution for false arrest, and his railroad liable to suit for damages. . . .

Selection and preliminary training of men is the first important feature of organization; continuous training and frequent arrangement or disposal systematically of the force for proper action is the other. In most instances when on duty each policeman has to depend entirely on his own initiative, must make his own decisions, must act upon his own judgment, and must feel sure of himself when he decides what to do, and that decision usually has to be made on the spur of the moment and even under trying circumstances. If he lacks character, moral courage and good judgment born of experience or proper and careful training, he will crack under the test and make a miserable mess of the job, probably to his own undoing, and certainly to your embarrassment.[10]

There appears to be general agreement that the minimum education of the applicant should be a grade school training. The present trend is toward higher educational qualifications, however.

As has been noted, the police were often the "decrepit" employees, and others generally superannuated. As recognition of the

[9] *Proceedings of the Protective Section, American Railway Association*, 1928, p. 81.

[10] *Ibid.*, 1923, pp. 85–86.

importance of efficient police work made progress, the age requirements changed. Even at the present time, policies with reference to age qualifications vary, but a well-defined trend toward employing young police can be seen. Generally speaking, railroads seek new police who are not older than thirty-five years. The logic is fairly obvious. Younger men make for a longer, continuous department, during which period definite training can be given to men who have not yet become habituated to certain behavior patterns. Rightly or wrongly, it is still thought that young men learn more readily and rapidly. Older men do not seem to be particularly anxious to do more than perform routine duties. Practically all roads specify height and weight requirements. All roads require medical and physical examinations, and failure to pass these tests results in final elimination.

The moral character of the applicant is more elusive, and because of the subjective nature of the judgment involved it would appear that if the applicant has not been convicted of any offense and convinces the department that he is not addicted to the use of liquor or drugs, he may be appointed. Of course he is investigated and must have the usual references.

Equipment and training

There appears to be no general rule that can be invoked with reference either to the character of equipment or to the nature of training given railroad police. The equipment on some roads consists of a gun and a club, together with uniform, badge, and rule book. In other cases the gun is omitted except for specific duties. In some cases clubs are not issued. Not all police are uniformed. Even badges may not be issued to the undercover men. However, where guns, clubs, badges, uniforms, and rule books are issued, the general practice appears to be that guns, clubs, badges, and rule books are "loaned" with appropriate documents signed to assure their return; while uniforms are paid for by the police by deductions from salary. Some roads require the police to buy their own revolvers; handcuffs are usually issued on loan.

The purchasing agent on some roads has charge of the "arsenal," while in other cases the police head may be in charge of riot guns, tear bombs, submachine guns, revolvers, clubs, badges, rifles, shotguns, cartridges, rule books, and all other equipment necessary for any emergency. The riot guns and the submachine guns are used in protection of value shipments, as previously noted, and also for protection of property and strike breakers during an industrial crisis.

Railroad police have not progressed far in the field of training.

Reports have been given of railroad police attending municipal police schools, and a number of railroad police are enrolled in evening law schools and university extension schools. Generally speaking, however, there appears to be no intensive training required.

The recruit is usually assigned, without equipment, to an experienced officer, with whom he spends a probationary period during which he is not permitted to make any arrests. When his superior officer is satisfied that the recruit has a grasp of the requirements, he is furnished with equipment and permitted to arrest with the approval of the supervising officer. The probationary period is sometimes determinate, but rarely extends over six weeks. During this period the recruit is questioned on the book of rules, which sums up the significant facts of duty as well as the definitions of crimes and the law of arrest. The recruit on some roads also must have a knowledge of first aid to the injured,[11] and on all roads is required to learn the fundamentals of courtesy and tact in handling problems of passengers.

It may be said that the railroad police are, in general, patient, cautious, courteous, and diplomatic. On some roads regular meetings of division captains are held and written examinations are given by the superintendent, as on the Baltimore & Ohio. The results of these tests, together with efficient service, become the criteria for promotion.

Powers and salaries

Except in a general sense, the police power delegated by law to railroad police cannot be determined without an examination of the statutes of individual states and analysis of decisions handed down in specific cases. The agitation by railroad police departments for Federal legislation granting uniform police power throughout the United States has not met with whole-hearted approval, and even police departments have not unanimously indorsed the movement:

> One of the topics that was discussed at the first meeting was the necessity for a uniform police commission in all of the states, and it was felt that the only satisfactory way to handle this would be by the enactment of a Federal Law giving railway police officers power similar to that given a United States Marshal. As a step preliminary to ascertaining what authorities the railway police operate with in the several states, a canvass was made and the following tabulation indicates the results of this canvass:
>
> The Governor has the power of appointing railway police in twenty-one states. In one state the appointments are made by the Superintendent of

[11] *Proceedings of the Protective Section, American Railway Association*, 1928, p. 123.

the State Police. In twenty states, appointments for railway police are obtained from the Sheriffs of the several counties or the City Police Department. . . .

The Chairman personally feels that while from certain angles the Federal statute appointing railroad police or giving railway police authority similar to that of U. S. Marshals may be highly desirable, there are other phases of the situation which I believe would not work to the advantage of railway police officers. For example: In all probability it would be our desire, if such legislation were requested, to include officers of the railway express companies. . . . This I do not believe would be desirable, as it would open avenues for a large number of men to be appointed, who, in reality, would not be policemen, but drivers for these express companies.

It is our opinion that the thing for us to do is to secure satisfactory legislation in the several states which now do not provide a statute for the appointment of railway police, either by the Governor or the head of the State Police where such a force is organized.[12]

The following excerpt from a letter from former United States Attorney-General Mitchell expressed doubt as to the advisability of such legislation:

I am satisfied that this is a most inopportune time to consider legislation of this kind and I recommend against the passage of the bill.[13]

The fear of opposition and the source of such opposition is presented by General Superintendent H. L. Denton, chairman of the Committee on Law Enforcement of the Protective Section:

. . . as a matter of fact, I think much more could be accomplished if we said little or nothing about what we anticipated doing. With a lot of talk on the subject, in certain localities, we might bring about unfavorable action on the part of labor organizations.[14]

Further agitation for Federal appointment was evident at the annual meeting in 1931.[15]

Generally speaking, railroad police are clothed with broad police powers which equal those possessed by municipal police. Not only may they arrest offenders against railroad property, but also offenders against the public peace. If appointed by the state, as in New York and Pennsylvania, the power delegated to railroad police is identical with that conferred upon state and city police, and may be exercised on or off the property. In Pennsylvania, as will be ex-

[12] "Report of Committee on Law Enforcement" (H. L. Denton, chairman). Circular No. P-220, New York, June 3, 1930. *Proceedings of the Protective Section, American Railway Association,* 1930, pp. 37–38.

[13] *Proceedings of the Protective Section, American Railway Association,* 1930, p. 41.

[14] *Ibid.*, p. 127.

[15] *Ibid.*, 1931, p. 158.

plained later, the railroad policeman possesses the police power of constables in all counties in which his commission is recorded.

Salaries in general compare favorably with those of public police, but can hardly be regarded as adequate. Watchmen appear to receive the least—some as low as $90 per month—while the average salary of a patrolman is about $150 per month. An analysis of salaries for selected roads is given later.[16]

Relation to public police

It has been pointed out that railroad police have developed despite the frank hostility of public police officials. It is only sixteen years ago that "the desk sergeant would rather book the officer" who brought in a box car thief.[17] They were not regarded as supplemental aids to city or public police. Today, however, railroad police not only supplement public police, but enter into a genuine coöperative effort with them except in special instances. The railroad police attribute the changed attitude on the part of public police to the fact that many railroad police have also been public police. Probably more important is the contention that railroad police willingly turn over offenders to city police, thus allowing the latter to get credit for the arrests.

Coöperation also has been developed with the Bureau of Investigation, United States Department of Justice, to which 180 officers of various railroads are contributing fingerprints.[18] Close coöperation for investigation of mail robberies and anonymous letters, as well as protection of mails, has been developed with the United States Post Office Department. Representatives of these two Federal branches regularly attend and address annual meetings of the Protective Section.

Hazards of railroad policing

Before turning to specific departments it might be informing to examine the dangers which railroad police must face. The following table needs no comment:

1923	*Killed*	*Injured*	
Lieutenants and sergeants	3	19	
Patrolmen	6	54	
Watchmen without police duties	2	9	
	11	82	Total, 93

[16] This was written during the spring of 1932.

[17] *Proceedings of the Protective Section, American Railway Association*, 1927, p. 135.

[18] *Ibid.*, 1931, p. 40.

1927	*Killed*	*Injured*	
Lieutenants and sergeants	2	12	
Patrolmen	6	42	
Watchmen without police duties	2	10	
	10	64	Total, 74

1928	*Killed*	*Injured*	
Lieutenants and sergeants	3	40	
Patrolmen	7	128	
Watchmen without police duties	3	91	
	13	259	Total, 272

Thus you will note that in 1923 you had 93 casualties and the man hours worked in that year were 39,248,000, an average of one casualty for every 422,000 man hours worked. In 1927 you had a total of 74 casualties and worked 34,736,000 man hours, having one casualty for every 470,000 man hours worked. However, in 1928, you had 272 casualties with 32,674,000 man hours worked, or roughly speaking one casualty for every 120,000 man hours worked. Your increase of casualties, therefore, per man hours worked, has been approximately 252 per cent between the years 1923 and 1928. Whether or not there is some explanation for this, indicating a difference in the character of service rendered at present which includes a greater exposure to train operation hazards, I leave to you to answer. The fact is that this situation brings home to you your personal interest in the matter of employe safety.[19]

[19] Rowe, H. A.: "Railroad Police and Safety First," *Proceedings of the Protective Section, American Railway Association,* 1930, pp. 60–61.

CH. III. RAILROAD POLICE IN PENNSYLVANIA

In order that the activities of railroad police may be more clearly examined, a view of the actual set-up and operation of specific departments seems advisable. For this purpose police departments in Pennsylvania have been selected. This selection was determined by the possibilities of gaining access to material conveniently.

The railroad police in the State of Pennsylvania came into existence through the Act of February 27, 1865 (P. L. 225), which authorized the Governor of the State to grant police power to any individual for whom the employing railroad petitioned. It provided that the commission of the person so appointed must be recorded in each county in which the policeman was to act. Further, the oath of office for all public officers as required by Section VII of the Pennsylvania State Constitution must be filed with the commission and a certified copy placed on file with the commission in the Recorder's Office, the oath being filed in the office of the Secretary of the Commonwealth.

The Act granted to the person so commissioned "the powers of the police of the City of Philadelphia and constables of the Commonwealth." No limit was set for the life of the commission, so that until the applicant left the service the commission remained in force without the necessity of renewal. In fact, no provision was made in the statute for removal even by the Governor, but such power was found in the Constitution of the State, so that impeachment proceedings are not necessary.[1]

No fees were charged for the issuance of the commission until 1870, when one dollar per commission was levied, payable to the Secretary of the Commonwealth. Not until the early years of the present century was a specific limit imposed upon the life of the commission. During the administration of Governor Pennypacker (1903–1907) the term of the commission was set at three years, after which time renewal was necessary. The fee for issuance remained undisturbed until 1923, when, during the first administration of Governor Pinchot, the charge was raised to five dollars for each commission. Such general conditions still govern the employment of railroad police in Pennsylvania. The Railroad Police Act is presented herewith:

[1] Article VI, Sec. 4.

1. *Appointment of railroad police*—Any corporation owning, or using a railroad, in this state, may apply to the governor to commission such persons as the said corporation may designate, to act as policemen for said corporation.

2. *Commission to be issued by the governor*—The governor, upon such application, may appoint such persons, or so many of them as he may deem proper, to be such policemen, and shall issue to such person or persons, so appointed, a commission to act as such policemen.

3. *Powers of police*—Every policeman so appointed, shall, before entering upon the duties of his office, take and subscribe the oath required by the eighth article of the constitution,[2] before the recorder of any county through which the railroad, for which such policeman is appointed, shall be located; which oath, after being duly recorded by such recorder, shall be filed in the office of the secretary of state, and a certified copy of such oath, made by the recorder of the proper county, shall be recorded, with the commission, in every county through or into which the railroad for which such policeman is appointed may run, and in which it is intended the said policeman shall act; and such policem[e]n, so appointed, shall severally possess and exercise all the powers of policem[e]n of the city of Philadelphia, in the several counties in which they shall be so authorized to act as aforesaid; and the keepers of jails, or lockups, or station houses, in any of said counties, are required to receive all persons arrested by such policemen, for the commission of any offense against the laws of this commonwealth, upon or along said railroads, or the premises of any such corporation, to be dealt with according to law.

4. *Shield to be worn*—Such railroad police shall, when on duty, severally wear a metallic shield, with the words, "railway police," and the name of the corporation for which appointed, inscribed thereon, and said shield shall always be worn in plain view, except when employed as detectives.

5. *Compensation*—The compensation of such police shall be paid by the companies, for which the policemen are respectively appointed, as may be agreed upon between them.

6. *Mode of dispensing with services of police*—Whenever any corporation shall no longer require the services of any policeman, so appointed, as aforesaid, they may file a notice to that effect, under their corporate seal, attested by their secretary, in the several offices where the commission of such policeman has been recorded, which shall be noted by the several recorders upon the margin of the record, where such commission is recorded, and thereupon, the power of such policeman shall cease and be determined.[3]

In New York the railroad police are commissioned by the Department of State. There is continuous life to the commission, and no fee is charged. The Superintendent of State Police may revoke the commission at pleasure by filing such revocation in the office of the Department of State and notifying the employer. The

[2] This is an error; should read "*seventh* article of the constitution."

[3] Pa. St. 1920, Paragraphs 18,542–18,547. Feb. 27, 1865. P. L. 225.

Superintendent of State Police also files the certificate of appointment of police in the office of the Department of State.[4]

The first comprehensive and searching investigation of railroad police in the State of Pennsylvania was *Conditions of Labor on Pennsylvania Railroad*.[5] In this report organized labor charged the railroad with practices which, though denied, revealed a systematic surveillance of labor that thoroughly antagonized the workmen. Since we are here concerned with the development of the police department, any attempt to assign truth or falsity to charges and countercharges would be gratuitous and very likely beside the point.

Prior to 1907, when the present organization on the Pennsylvania Railroad came into existence, there were several police departments. Each division had its own police, and what occurred on one division concerned no one and was unknown to any one but the officials of that division. No records exist of the activities of these several departments, and no organizing principle appears. It simply meant that the captain in charge of a division reported to his division superintendent and there the matter ended.

From the following tables submitted to the investigating committee on conditions of labor on the Pennsylvania Railroad may be seen the general scheme of organization which existed in 1915, as well as the pay-roll expenses:

POLICE DEPARTMENT—PENNSYLVANIA RAILROAD CO.

PHILADELPHIA—HEADQUARTERS

	Monthly Wage
1 superintendent	$212.00
1 inspector	145.75
1 captain	96.20
1 lieutenant	89.80
	$543.75

Three of these officers have State police authority; one is uniformed.

EASTERN PENNSYLVANIA DIVISION—HEADQUARTERS, ALTOONA, PA.

1 inspector	$ 145.75
6 captains	657.20
9 lieutenants	833.95
78 patrolmen	6,002.10
94	$7,639.00

All these men have State police authority; 60 have uniforms.

[4] Laws of New York, ch. 546, paragraph 88 (1928).

[5] Final Report and Testimony Submitted to Congress by the Commission on Industrial Relations Created by the Act of August 23, 1912. Senate Document No. 415, Vol. XI.

WESTERN PENNSYLVANIA DIVISION—HEADQUARTERS, PITTSBURGH, PA.

1 inspector	$ 145.75
4 captains	434.60
9 lieutenants	840.80
46 patrolmen	3,488.50
60	$4,909.65

All these men have State police authority; 10 have uniforms.

NEW JERSEY DIVISION—HEADQUARTERS, NEW YORK CITY

2 inspectors	$ 306.05
3 captains	339.20
9 lieutenants	903.60
101 patrolmen	7,197.50
115	$8,746.35

All these men have State police authority; 100 have uniforms.

P. B. & W. R. R.—HEADQUARTERS, WILMINGTON, DEL.

1 inspector	$ 145.75
1 captain	116.00
4 lieutenants	359.20
23 patrolmen	1,769.85
29	$2,390.80

All these men have State police authority; 21 have uniforms.

CENTRAL DIVISION—HEADQUARTERS, WILLIAMSPORT, PA.

1 inspector	$ 145.75
3 captains	530.00
4 lieutenants	359.20
28 patrolmen	2,154.60
36	$3,189.55

All these men have State police authority; 34 have uniforms.

NORTHERN DIVISION—HEADQUARTERS, BUFFALO, N. Y.

1 inspector	$ 145.75
2 captains	212.00
16 patrolmen	1,231.20
19	$1,588.95

All these men have State police authority; 16 have uniforms.

PHILADELPHIA TERMINAL DIV.—HEADQUARTERS, PHILADELPHIA

1 inspector	$ 145.75
3 lieutenants	253.10
32 patrolmen	2,052.80
36	$2,451.65

Three of these men have State police authority, while 33 have City of Philadelphia police commissions. 36 of these officers have uniforms.

GENERAL

Number of men with State authority	361
Number of men with city authority	33
Number of men without commissions	1
Total number of men	395
Monthly disbursement of wages	$ 31,459.70
	12
	62 919 40
	314 597 0
	$377,516.40

The figures in the foregoing table represent the active commissioned police service of the Pennsylvania Railroad Company.

Of the 395 men, 278 are equipped with uniforms.[6]

In addition to the personnel appearing in the above lists, it should be borne in mind that a large number of other employees engaged in undercover work in connection with labor activities should be included. As brought out in these hearings, the Pinkertons were regularly employed by the Pennsylvania Railroad. The employment of confidential agents in 1915 was entirely separate from the police department, although both came under the jurisdiction of the superintendent of telegraph. Nevertheless, it should not be confused with police work. The Pinkertons, as far as can be learned, have not as a general rule been employed for regular police work. Their employment has been, and still is, for a special type of investigation or undercover work, and their operations appear on a separate report to the general manager.

At the present time the police department is actively directed by three superintendents of police, with headquarters at Philadelphia, Pittsburgh, and Chicago, and two inspectors of police, with headquarters at New York City and at Altoona Works, Altoona, Pennsylvania. The three superintendents of police report to the general manager instead of to the superintendents of telegraph, the change having been made in 1931. One inspector reports to the general superintendent and the other inspector reports to the works manager at Altoona, Pennsylvania. The superintendent of police of the Eastern Region, with headquarters at Broad Street Station in Philadelphia, under the direction of the vice-president and comptroller, handles investigations of cases involving tickets, revenue, and so forth, for the entire Pennsylvania Railroad system.

[6] Final Report and Testimony Submitted to Congress by the Commission on Industrial Relations Created by the Act of August 23, 1912. Senate Document No. 415, Vol. XI, pp. 10432–10433.

Selection of personnel

As set forth in the general statement with reference to railroad police in this country, comparatively little attention was given to the character of the applicant during the early days of railroad police work. The application for commissions simply listed the names for whom commissions were sought. Even the signature was typed. Whether the prospective policeman was an American citizen, could read or write, or had spent time in prison, was apparently of little consequence. Even as late as fifteen years ago, no serious investigation of the fitness of the applicant was undertaken. The result was that railroad police were generally suspected by all railroad workers and by the public police.

The realization that public confidence and efficient protection could never develop from the chaotic methods of selection of police brought about the changes of the past ten years. It can be confidently asserted that the railroad police departments generally have shown far greater improvement in the last decade than any other type of police organization, with the possible exception of state police. This can be brought out clearly by examining the methods of hiring in vogue, for instance, on the Pennsylvania and the Baltimore & Ohio railroads. Where in former days a powerful individual was assured of a place on the police force, today tremendous physique must wait upon an intelligent and alert mentality.

The rules governing the Pennsylvania State Police provide that members of that organization shall be unmarried. When the policeman marries he resigns from the State Police. Many of these are to be found in the ranks of the railroad police and thus have had the advantage of police training and experience in police work, which makes them particularly attractive to railroad police executives.

The applicant applies to a captain of police for a position. If there is a vacancy, he fills out the form supplied. His references are carefully investigated. If he is found acceptable he is recommended by the captain of police to the superintendent of police. After consideration by the superintendent of police the application is forwarded to the division superintendent, with the former's approval or disapproval. Both photographs and fingerprints are required on the New York Central lines and on the Baltimore & Ohio.

When moral requirements are fulfilled, the question of age, height, and weight, together with general educational qualifications, is examined. The applicant must have at least a grammar school education, and at the present time the tendency is to take only those who have had more than such training. On some roads may be found some university trained men. On the Pennsylvania,

the age limits followed are 21 to 35 years. The height requirements range from the minimum five feet, eight inches, to six feet, three inches. Weight limits must not fall below 150 pounds nor exceed 200 pounds. A thoroughgoing physical examination must be taken, the results of which are final.

Lastly, the applicant must not use intoxicating liquor. This last requirement is probably the least important so long as the policeman refrains from drinking while on duty. Some roads apply Rule G to enforce this qualification, which refers to a kind of espionage by the railroad upon the off-duty activities of the police. The Lehigh Valley, the Pennsylvania, and the Baltimore & Ohio do not follow this.

The requirement in effect on the Baltimore & Ohio that every applicant submit a photograph and be fingerprinted has resulted in greater efficiency, a higher morale, and a more loyal staff, according to General Superintendent Denton. He declared that many a prospective policeman failed to return when informed of the fingerprint requirement. Records of investigations of applicants are, of course, on file in all police departments.

When all requirements are satisfactorily filled, the railroad petitions the Governor for a commission in the name of the applicant. This petition sets forth the Act under which appointment is sought; the official name of the prospective employer; that the employing company is duly authorized to do business under the laws of Pennsylvania; that its property is located in the State of Pennsylvania, in whatever county or counties; the circumstances requiring the appointment of police; that "the person recommended for appointment is capable and reliable, and his reputation for sobriety and peaceableness is good"; that he is a citizen of the United States and of the Commonwealth of Pennsylvania. His employment for the three years previous to application must be given by months. Two indorsers must sign the application attesting the truth of the statements submitted.

When the application is completed and is accepted by the Secretary of the Commonwealth, a commission is forwarded to the Recorder of Deeds of the county in which the applicant is to act. The applicant now must subscribe the oath of office as required by Article VII of the State Constitution, swearing to uphold the laws and the Constitution. This oath must be taken before the Recorder of Deeds in the county or counties "in which the corporation is located or the property is situated and in which it is intended he shall act." The oath of office is placed on file in the office of the Secretary of the Commonwealth and in the office of the Recorder of Deeds. Notice is sent to the employing company that the commis-

sion has been granted. The application is sworn to before a notary by some representative of the employing company. Before the commission is issued, the statutory fee of five dollars must be paid. The employing company may discharge a policeman by "filing notice to that effect, under seal, attested by Secretary, in the several offices where commissions have been recorded."

Anomalous position of railroad police

The payment of the fee and the recording of the commission and the oath of office confer upon the new policeman all the powers of a policeman of the City of Philadelphia and of constables of the Commonwealth of Pennsylvania. This gives rise to a legal anomaly—a public police officer who is at once a private police officer. The courts have passed upon the powers possessed by such police on a number of occasions, and while the power appears certain, the decision as to when they are constables and when railroad police has been difficult. An opinion given Governor John S. Fisher on March 25, 1930, by Special Attorney-General Schnader (later Attorney-General) is particularly cogent:

RAILROAD POLICE

1. A railroad policeman appointed under the Act of Feb. 27, 1865, P. L. 225, is a public officer within the meaning of article VI, section 4 of the Constitution, and may be removed by the Governor at pleasure.

2. The duties of a constable and a railroad policeman are so similar as to make it difficult to determine in which capacity particular acts are performed, and it is highly improper for a constable, during his term of office, to serve as a railroad policeman; under such circumstances, the Governor may remove him from the latter office. . . .

It is true that railroad police are paid by the railroads, but it is also true that they cannot begin to function as such until they have been commissioned by the Governor and have taken the constitutional oath of office, and that in the discharge of their duties they have the same authority which is conferred by law upon police officers in cities of the first class. Accordingly, while these officers are anomalous, in that they are charged with the performance both of public and of private duties, nevertheless we are clearly of the opinion that they are public officers within the meaning of article VI, section 4, of the Constitution and may be removed by the Governor at pleasure.[7]

The fact that the Railroad Police Act of 1865 did not provide for removal of such police by the Governor made necessary the invocation of the Constitutional article.

[7] 13 Pa. D. & C. Repts. 665. Article VI, section 4, of the Constitution provides among other things that "appointed officers, other than judges of the courts of record, and the Superintendent of Public Instruction, may be removed at the pleasure of the power by which they shall have been appointed."

The difficulty of determining just when the railroad police are to be regarded as public police and when employees of the railroad is brought out in the Attorney-General's opinion to Governor M. G. Brumbaugh on June 12, 1918, when the Pennsylvania Railroad sought a commission for Mrs. Kate A. Campbell. The opinion stated that the "acts above mentioned [1865], giving authority to the Governor for the appointment of special police, do not create them police officers of the Commonwealth, but police officers for the several corporations asking for their appointment, conferring upon them like powers as are possessed by police officers of the Commonwealth."[8]

It thus appears that railroad police are public police and at the same time they are not public police. They are possessed, as a matter of law and fact, not of *like* powers as those possessed by municipal police and constables, but of *the same* powers, which obviously means *identical* powers. The real question of jurisdiction and power lies in determining *when* they are exercising such powers and not *what* the powers are. Generally speaking, the courts have been fairly explicit in the determination of this aspect of the problem. In *Naugle* v. *Penna. R. R. Co., Appel.*, the court held that a railroad company is not liable in damages for an unwarranted arrest on a charge of being a "suspicious person" made on a public street if not directed or instigated by any officer or employee of the company. The police are presumed in the absence of rebutting evidence to have been acting as public officers and not engaged in special services of the company.[9]

This is even more clearly brought out in a case which involved an arrest of an innocent person charged with being a fugitive from justice, upon complaint of a private citizen. One Rider was arrested upon complaint of one Goldstein in the City of Harrisburg. Rider sued, charging false arrest, since in fact he was not a fugitive. The court held that in "making arrests for violation of law not immediately concerning property of a railroad company, such officers act, not as agents of the company, but as municipal policemen." [10] The railroad is not liable for false arrest where it appears that the plaintiff was not arrested for an offense against the railroad.

From the above cases a definite principle emerges, plainly distinguishing between the public and private police character of the act. Where the company through its agent, employee, or officer *does not* instigate, direct, authorize, order, request, or ratify the arrest, or the policeman is not acting *as* a railroad policeman, the

[8] Pa. Dist. Repts. 214. [9] 83 Pa. Sup. Ct. Repts. 528.
[10] 284 Pa. St. Repts. 117.

company is not liable. In such cases the master-servant relationship disappears and the police act in a public capacity.

In the case of *Butler et al* v. *Penna. R. R. Co.*, a verdict of $250 in damages was given two plaintiffs alleging false arrest. In this case a charge of trespass was brought against two persons who entered the railroad station at Cannonsburg, Pennsylvania, to inquire the time of the next train to their destination. It was brought out that the plaintiffs left the line at the ticket office to examine schedules. The police had been notified by the station agent that a number of persons were annoying patrons at this point. The police were sent to Cannonsburg and arrested the plaintiffs. They were required to post a ten dollar bond for appearance. They were discharged for lack of evidence. The police failed to display the badge required by law, and further, any arrest made on Sunday in this State is illegal, except for treason, felony, or breach of the peace, and further, one of the police had no commission recorded in the county where the arrest occurred. The court held that the company was liable not alone on the above grounds, but also because the police were acting in the special service of the company and not as public officers.[11]

In general, then, "to hold the company liable there must be evidence to overcome the presumption that the act complained of was done by the commissioned officers in their official capacity and not as servants of the coal company."[12]

It may be seen that supreme police power is lodged in the hands of railroad police, since theoretically they are to protect railroad property, but in reality their power is continuous throughout all counties in which their commissions are recorded. The railroads are thoroughly aware of the anomaly that exists, and have repeatedly asserted that maintenance of police departments should not rest with them. They point to the tremendous tax bill paid annually by the railroads, and raise the question of the justice of the system imposed on them. Since private home owners are assured police protection without extra cost, the railroads feel that an unnecessary expense is imposed upon them. While there is a measure of justification in their claims, the fact remains that publicly paid police can hardly be expected to protect freight shipments or to patrol property which extends thousands of miles. In the case of mining industries, such a claim would be valid. The specialized nature of railroad work makes imperative a separate type of police for such work.

It has been suggested by critics of the present railroad police

[11] 78 Pitts. L. J. 681–686.

[12] 299 Pa. St. Repts. 109. *Fagan* v. *Pitts. Term. Coal Corp., Appel.*

organization that they should be restricted to the property of the railroads. There appears to be no good reason why this should not be accepted theoretically. The difficulty lies in the pursuit of offenders against the railroad. If police jurisdiction ceases at the public street or on land adjoining the right of way, the value of railroad police is zero. Without police power as watchmen, for example, no protection worthy of consideration could be given. Taking all facts into consideration, railroad police at present are necessary, despite the opposition which arises during labor crises, or the philosophic reflections of serious students of economic organization.

Probably the most violent criticism of the practice of delegating state police power to railroad employees was set forth in 1915 by the Commission on Industrial Relations:

> The investigations of the commission with regard to railroads have been too limited to permit of general findings or recommendations. Enough evidence has, however, come before the commission with regard to three points to warrant attention. . . .
>
> Under the authority granted by the several States the railroads maintain a force of police, and some, at least, have established large arsenals of arms and ammunition. This armed force, when augmented by recruits from detective agencies and employment agencies, as seems to be the general practice during industrial disputes, constitutes a private army clothed with a degree of authority which should be exercised only by public officials; these armed bodies, usurping the supreme functions of the State and oftentimes encroaching on the rights of the citizens, are a distinct menace to public welfare.
>
> It is suggested that the commission recommend: . . .
>
> The regulation by Federal statute of the employment of police on interstate railroads. The statute should not only provide for the organization, personnel, and powers of such police, but should definitely provide that during labor disputes such police should be subject to the proper civil authorities and paid out of the public treasury. The statute should also provide that such corporations should be permitted to have firearms only under license, requiring that a definite record be maintained showing the character of each firearm and to whom it is issued.
>
> The assumption by the States of full responsibility and definite provision not only for protecting the property of railroads, but for preventing trespass upon their property.[13]

There is no doubt as to the truth of these conclusions, either then or now. Railroad police remind one of the Middle Ages. They are modern private armies. The fact that few complaints

[13] Final Report and Testimony Submitted to Congress by the Commission on Industrial Relations Created by the Act of August 23, 1912. Senate Document No. 415, Vol. I, pp. 77–78.

have been directed against them is eloquent of the efficiency with which they are controlled by the railroads. In Pennsylvania the State exercises no control whatever over these police. It simply meets its contractual obligations, and after conferring police power, forgets about it. Railroad police are responsible to the company by whom they are employed and paid, and to no one else. Such an arrangement is fraught with obvious dangers. Particularly dangerous is the situation during strike conditions. At such times all forces of protection must be mobilized and increased. It is manifestly impossible to investigate every recruit added for the period of the emergency. It is at such times that the need for disciplined State police protection is imperative.

The most cogent reason for the lack of complaints during normal times is to be found in the careful selection of applicants for regular police duty and the close supervision exercised by superior officers. On the Pennsylvania Railroad, regular reports to the divisional superintendent and to the police superintendent are required. This means that the superior officers are fully informed at all times as to the activities of the police. On the Baltimore & Ohio, a copy of all correspondence between subordinates touching on police work is required to be sent to the general superintendent at Baltimore.

It can be generally conceded that the police are adequately supervised and disciplined by the proper authorities; but such can hardly be said of others who, nominally under police jurisdiction, carry on undercover work. As has been stated before, every railroad uses some system of espionage. The personnel and the purpose of the spy system may vary.[14]

The actual organizational set-up on the Pennsylvania Railroad is as follows: A captain or lieutenant of police is in charge of each division and reports to the division superintendent and to the superintendent of police.

On the Lehigh Valley, all reports by captains and those in charge of divisions are made directly to the chief of police, who in turn reports to the vice-president in charge of operations. On the Baltimore & Ohio, subordinates report to the general superintendent, who in turn reports to the operating vice-president.

The Pennsylvania Railroad uses agency men for undercover work at the present time, but their activities appear to be more for checking and investigation of losses than labor work, as was the case fifteen years ago. One reason why agency men are used is that railroad employees generally have no desire to spy on their

[14] For a description of the spy system on the Pennsylvania Railroad, see *Conditions of Labor on Pennsylvania Railroad*, pp. 10069–10153.

fellows, and, further, that they are likely to be recognized. The Baltimore & Ohio has a small secret service, separate from the police department but directed by the general superintendent of police. These men are in shops, yards, and trains, and report in person to the general superintendent at his home or some place other than police headquarters. The railroad police departments during the past ten years have shown a disinclination to hire private detectives and have begun to develop their own staffs for confidential work. Just how many are employed cannot be learned. The number in relation to the total number of police is probably small. It does not remain constant, but depends upon the problems as they arise. One head of a railroad police department made it clear, however, that it is possible to secure "any person" needed, on short notice. A Catholic ex-priest had been used to find out what the Communists were scheming.

Besides these who work on a per diem basis of ten dollars, there are others whose tenure is momentary. A ticket agent suspected of short-changing is confronted by an old woman seeking a ticket to some small town. Or perhaps a Negro heading South purchases a ticket. Both may be in the employ of the police department. Wives of railroad men who enjoy riding in busses may be given an afternoon's trip and a few dollars to observe the general deportment of the driver, the conditions of the bus, and so forth, and report to the police department. These individuals are not police, obviously, but are mentioned to illustrate the varied character of the work falling under the supervision of railroad police departments.

It is manifestly difficult to control the acts of these agents. Detectives have been known to "find" trouble rather than "find out."

Equipment

The equipment used by railroad police appears to be about the same for all roads. On the Pennsylvania, the police pay one half the cost of their own uniforms. The police on the Baltimore & Ohio and the Lehigh Valley railroads buy their own uniforms. Clubs, guns, badges, and rule books are loaned and must be returned when the employee leaves the service. As has already been pointed out, riot guns, shotguns, and bombs are used for the protection of value shipments.

Necessarily, the number of firearms is dependent upon the number of police and the general industrial conditions on the railroad. The exact number of clubs and guns owned by the Pennsylvania could not be learned, but it was authoritatively stated that "there are a few revolvers and shotguns stored." The following letter

indicates something of the quantity of arms and ammunition possessed by the Pennsylvania in 1915:

[The Pennsylvania Railroad Co.]
GENERAL OFFICE, BROAD STREET STATION,
Philadelphia, May 11, 1915.

HON. FRANK P. WALSH,
Chairman United States Commission on Industrial Relations,
Washington, D. C.

Dear Sir: Referring to the question raised at hearing at Washington Friday, May 7, at which time you asked Mr. J. C. Johnson, superintendent telegraph, to furnish you a statement of arms and ammunition stored on the system for emergency use, we find that the purchasing agent has in stock in his rooms at Philadelphia 5,113 revolvers, 130 shotguns, 64,107 cartridges, 1,041 riot clubs, 435 pair handcuffs, 1,285 holsters with belts, and 5,013 special-police breast badges, and, as stated to your commission, this material is furnished on regular requisition when needed, and, if used when a strike is in progress, they are collected and again stored after the trouble is over.

Yours, truly,

S. C. LONG,
General Manager.[15]

Within the past year there have been attempts by commercial concerns to interest railroads in tear and gas bombs for regular use in handling difficult offenders, such as fighting drunkards. Nothing, however, has yet been decided. Police officials hesitate to use such weapons in stations because of the inconvenience to innocent patrons, and their use on robbers is largely dependent on wind direction. However, there is no reason for revising President Atterbury's statement in 1915: ". . . we are prepared for anything that the other fellow is getting ready for."[16]

Number and cost of railroad police

As has been set forth earlier, there were about ten thousand railroad police in the United States in 1929. Erring on the side of understatement and allowing only $150 per month as the average wage rate, the total annual bill for police on all roads in this country would be in the neighborhood of twenty million dollars at the present time, since increases rather than decreases in number have been reported. Restricting examination to the State of Pennsylvania, the available data on numbers and costs are presented below.

The Pennsylvania Railroad in February of 1932 had 739 police on the entire system, of which number 298 were located in Pennsylvania. The remainder were spread from New York to Chicago in

[15] *Conditions of Labor on Pennsylvania Railroad*, p. 10447. [16] *Ibid.*, p. 10131.

the West, and to Virginia in the South. The Lehigh Valley Railroad had 138 police in December 1930. As reported by the Secretary of the Commonwealth for the State of Pennsylvania, the Lehigh Valley had 19 police commissioned in this State on January 21, 1932. The Reading Company had 68 police in commission in this State on the same date. On May 15, 1931, Chief Powell of the Reading Company reported 74 men on the entire system.[17]

The following schedule listing 622 railroad police "in commission" January 21, 1932, presents the situation in Pennsylvania:[18]

B. & O. R. R. Co.	61
D. L. & W. R. R. Co.	28
D. & H. R. R. Corp.	26
Pgh. & W. Va. Ry. Co.	2
Phila. & Western Ry. Co.	11
Lehigh & New England R. R. Co.	6
Union R. R. Co.	4
Pgh., Chartiers & Youghiogheny R. R. Co.	1
Western Maryland Ry. Co.	1
Lehigh Valley R. R. Co.	19
Pgh., Shawmut & Northern R. R. Co.	1
Pgh. & Shawmut R. R. Co.	1
B. R. & P. Ry. Co.	10
Huntingdon & Broad Top R. R. & Coal Co.	1
Monongahela Ry. Co.	1
Pgh. & Lake Erie R. R. Co.	38
Reading Co.	68
Erie R. R. Co.	11
B. & L. E. R. R. Co.	12
C. R. R. Co. of N. J.	6
N. Y. C. R. R. Co.	16
Penna. R. R. Co.	298
	622

The Pennsylvania Railroad operates on no budgetary appropriation but rather attempts to keep down expenses only to the extent that all problems are efficiently handled and extravagance eliminated. Using the base figure of $150 per month, the monthly pay roll for railroad police in Pennsylvania would total at least $93,300, with an annual cost of approximately $1,119,600. For the Pennsyl-

[17] A brief explanation of the Reading Company police may have interest. The police department was organized in 1882, and consisted of four policemen. In 1931, 53 police worked out of the Chief's office at Spring Garden Street, Philadelphia, with 21 men under an inspector at Reading. It may be seen that since a few of the Reading police are located outside Pennsylvania, the staff has remained about the same during the past few years.

[18] Information furnished by the Secretary of the Commonwealth.

vania system in the State of Pennsylvania the pay roll for the same period would be roughly $44,700. For the entire system at least $1,330,200 is paid annually, while the annual pay roll for the Pennsylvania system in this State would be $536,400.

According to General Superintendent Denton, the Baltimore & Ohio pay roll for police is about $85,000 per month, making an annual pay roll of at least $1,024,500, including as it does $4,500 in police expense accounts. This represents an increase during the past ten years from $36,000 per month to $85,000.[19] These figures are exclusive of the salary of the general superintendent.

The Delaware, Lackawanna and Western, usually referred to as the "Lackawanna," is here compared with the Lehigh Valley Railroad from the standpoint of personnel and costs, as set forth in December 1930. Comparisons of pay-roll costs and police personnel show the following for three successive periods:

	Number of Men	Annual Cost
1924		
Lackawanna	300	$520,805.64
Lehigh Valley	160	375,868.58
1926		
Lackawanna	255	499,816.80
Lehigh Valley	163	343,888.80
1930		
Lackawanna	209	407,832.00
Lehigh Valley	138	294,024.00

The monthly pay-roll cost of the Lackawanna in December 1930 was $33,986. The annual cost may be seen from the above to have been $407,832. The yearly cost per rail mile was $408, and the total mileage of the road was 998 miles. The Lehigh Valley monthly pay-roll was $24,502; annual cost, $294,024; yearly cost per rail mile, $216; and total mileage, 1,362 miles. It will be noted that with 364 more miles to be protected, the Lehigh Valley expended $113,808 less than the Lackawanna in 1930.

An analysis of these two roads from the standpoint of scalar distribution of men and salary rates reveals the following:

[19] These figures were obtained June 17, 1931.

COMPARATIVE STATEMENT OF COSTS OF OPERATION OF POLICE DEPARTMENTS, LACKAWANNA AND LEHIGH VALLEY RAILROADS, DECEMBER 1930 [20]

Lackawanna Railroad	Per Month	Lehigh Valley Railroad	Per Month
1 Chief Special Agent	$...	1 Chief of Police	$...
1 Inspector	270	1 Inspector	300
2 Inspectors	255	1 Chief Investigator	260
1 Inspector	240	2 Captains	265
1 Chief Claim Investigator	200	2 Captains	240
4 Claim Investigators	185	2 Captains	210
19 Lieutenants	190	2 Lieutenants	210
12 Sergeants (Yard)	175	8 Lieutenants	200
25 Sergeants (Train Guards)	170	2 Investigators	200
4 Sergeants (Shop)	165	1 Investigator	190
139 Sergeants (2d Class) Average	154	27 Sergeants	180
—		12 Sergeants	170
209		8 Sergeants (2d Grade)	165
		1 Train rider	180
		65 Train riders	170
		2 Train riders	165
		1 Station Patrolman 51¢ hour	122
		—	
		138	

A detailed schedule of the distribution, number, and salaries of the members of the Lehigh Valley Railroad Police Department is given below:

LEHIGH VALLEY RAILROAD, FEBRUARY 16, 1931 [21]

Headquarters	1	Chief	$...	$...	
	1	Inspector	300	300	
	1	Chief Investigator	260	260	
	1	Investigator	200	200	
	5 1	Investigator	190	190	$ 950
N. Y. and	1	Captain	265	265	
N. J. & L. in N. J.	2	Lieutenants	210	420	
	2	Lieutenants	200	400	
	10	Sergeants	180	1,800	
	17	Sergeants	175	2,975	
	43	Train riders	170	7,310	
	1	Train rider	165	165	
	83 7	Sergeants (2d Grade)	165	1,155	14,490
N. J. & L. in Penna.	1	Captain	240	240	
(Includes M&H)	1	Lieutenant	200	200	

[20] Information furnished by M. J. Booth, Chief of the Lehigh Valley Railroad Police.

[21] Information furnished by M. J. Booth.

		2 Sergeants	170	340	
		4 Train riders	170	680	
	9	1 Patrolman 51¢ hr.	122	122	1,582
Wyoming Div.		1 Captain	240	240	
		1 Sergeant	170	170	
	5	3 Train riders	170	510	920
Seneca Div.		1 Captain	240	240	
		1 Lieutenant	200	200	
		4 Sergeants	170	680	
	7	1 Train rider	170	170	1,290
Buffalo Div.		1 Captain	265	265	
		4 Lieutenants	200	800	
		1 Investigator	200	200	
		3 Sergeants	170	510	
		13 Train riders	170	2,210	
	23	1 Train rider	165	165	4,150
Auburn Div.		1 Captain	210	210	
		1 Sergeant	170	170	
	3	1 Sergeant	165	165	545
	135				$23,927

Summary

1 Chief	3 Investigators
1 Inspector	38 Sergeants 1st Grade
1 Chief Investigator	8 Sergeants 2d Grade
6 Captains	66 Train riders
10 Lieutenants	1 Patrolman
	135

Before concluding this section we may turn for a moment to salary scales in effect on the Baltimore & Ohio and the Pennsylvania railroads.

	Baltimore & Ohio	Pennsylvania
Captains	$255–270	$260–270
Lieutenants	220	210–230
Sergeants	195	180–200
Train riders	193	
Patrolmen	165.47	145–165 [a]
Watchmen	138.70	

[a] This amount is usually paid at the end of three years. On the Reading, patrolmen start at $155 per month. The average salary is about $180 per month for all police on this road. Chief Powell thought it inadvisable to give out more information on salaries, but it may be said that the annual pay roll approximates $159,840,

In addition to the railroad police who are under the supervision of railroad police departments, there are the Railway Express Agency police and special agents, engaged in the same type of work but supervised by their own special service departments. These police deal largely with theft and loss problems, but these are far from as great as those handled by the railroad police. There are twenty departments in the United States. Wherever a general manager is located, as in Philadelphia, there is a special service force. The department may include several states. The uniformed police patrol the property and supervise movements of freight. Special agents in plain clothes ride trains and trucks where shipments of valuable goods are involved. In the Allegheny department, which comprises Pennsylvania, Maryland, Delaware, New Jersey, part of Virginia, and part of West Virginia, there are twenty policemen and four special agents. The annual cost is approximately $50,000. The gross revenue for 1926 was $298,000,000. About $4,000,000 was paid in claims for loss and damage. Approximately $1,750,000 was paid for complete loss and pilferage, "and it is probable that most of the complete loss is due to thieving."[22]

[22] *Proceedings of the Protective Section, American Railway Association*, 1927, p. 24.

CH. IV. ARREST STATISTICS AND RECORDS

Until comparatively recent times, railroad police departments have paid little attention to statistics of arrests. Since the formation of the Protective Section of the American Railway Association in 1920, certain arrest data have been recorded. These are not published and their value is slight, since no classification beyond felony and misdemeanor is used. In view of the various definitions of the same crime in different states, it is obvious that nothing more than a general picture can be formed.

The Lehigh Valley Railroad was the only road operating in Pennsylvania which had detailed arrest data available, and such were graciously placed at the writer's disposal by Chief Marshall J. Booth. In the reports by the chief of police to the operating vice-president the specific offenses are listed. These records are continuous since 1919. The totals for all offenses, by years, appear in the following table:

Year	All Offenses
1919	3,449
1920	1,881
1921	3,519
1922	1,892
1923	1,905
1924	1,871
1925	1,506
1926	1,456
1927	1,457
1928	1,079
1929	1,619
1930	1,579
1931	1,666
Total	24,879

Selecting legal categories on the basis of frequency as indicative of the offenses necessitating greatest use of the police department, the following table shows the number of arrests for trespass, illegal car riding, petty larceny, and malicious mischief:[1]

[1] Statistics for 1932 were received too late to be conveniently included but are herewith given: Total, 1,804, of which 477 were trespass, 367 were illegal car riding, 598 were petty larceny, and 121 were malicious mischief.

Year	Trespass	Illegal Car Riding	Petty Larceny	Malicious Mischief	Total
1919	818	740	871	341	2,770
1920	418	306	539	169	1,432
1921	779	1,353	586	190	2,908
1922	291	594	399	105	1,389
1923	281	414	531	256	1,482
1924	324	471	376	178	1,349
1925	447	276	316	148	1,187
1926	234	223	379	250	1,086
1927	355	238	429	158	1,180
1928	170	178	228	128	704
1929	327	265	266	316	1,174
1930	355	238	429	158	1,180
1931	179	504	427	116	1,226
Totals	4,978	5,800	5,776	2,513	19,067

The grand total of arrests for the thirteen years was 24,879. It may be seen that the offenses listed constituted approximately 76 per cent of all cases handled by the police department of the Lehigh Valley Railroad. Thus, 5,812 offenses remain to be accounted for. Of this number, 833 were charged with breaking and entering and larceny; 277, with receiving stolen goods; 1,013, malicious injury to railroad; 34, breaking and entering; 38, burglaries; 196, unlawful intrusion; and 173, grand larceny; making a total of 21,631 offenses against property. To this may be added 1,460 charges of drunk and disorderly, and 452 disorderly conduct; 260 juvenile delinquency; and 408 vagrancy. Runaways constituted 125, assaults 137, carrying concealed weapons 75, reckless driving 34, and inciting to riot 149, leaving 148 offenses which included 14 murder arrests and 58 violations of the Carlin Act. The remaining 76 offenses are spread over some twenty different categories. It is evident that crimes against property dominate the work of this police department.

The average rate of conviction for the thirteen years was 97.47 per cent of the total number of arrests. A comparison with city police work suggests superiority of evidence secured and preparation of cases by these railroad police. The number of years served for offenses in the thirteen-year period totaled 662. The percentage of convictions may also be partially explained by the practice of bringing offenders before local justices of the peace. It is a notori-

ous fact that railroad police usually "do business" with justices who are "reasonable." Presented below are two arrest reports used by the Lehigh Valley Railroad Police Department.

LEHIGH VALLEY RAILROAD COMPANY

POLICE DEPARTMENT

REPORT OF ARREST

Division.....

Date of Arrest.....193...

NAME	Age	Occupation	Nationality	RESIDENCE No. Street City State

Place of arrest Time By whom Arrested

Charge Prosecutor

Tried at Date Judge

Decision

Disposition

Names and addresses of witnesses

List of and value of goods recovered

REMARKS:

Original to Chief of Police,
Copy to Superintendent.

(Signature)

LEHIGH VALLEY RAILROAD COMPANY

SUMMARY OF POLICE OPERATIONS FOR WEEK ENDING.....

CHARGES ON WHICH ARRESTS WERE MADE

Divn.	Lar.[a]	RSG[b]	MM[c]	D&D[d]	ICR[e]	Tres-pass	SUMMARY CONVICTIONS. Total	Days Jail	Fines Paid
PENNA.									

DISPOSITION OF ABOVE CASES

Given Jail Sentence.....
Committed to Jail in Default of Bail.....
Furnished Bail.....
Paid Fines.....
Discharged with Reprimand.....
Sentence Suspended.....
Placed on Probation.....
Turned Over to Juvenile Authorities.....
Turned Over to Other Authorities.....
Pending.....
Discharged on Account of Insufficient Evidence.....
Total.....

Discharged on Account of Insufficient Evidence from Previous Weeks.....
NUMBER CONVICTIONS.... Current Week.... Previous Weeks.... Total...
Number Employes Arrested or Discharged a/c Theft During Week.....
CASES CLOSED OUT DURING THIS WEEK (show date of arrest, offense, location, name of defendant, place of trial, date, Judge and sentence)

Cases pending from previous weeks.....
Value of stolen goods found or recovered.....
Claims Eliminated.... Number.... Total Amount.....

[a] "Larceny."
[b] "Receiving Stolen Goods."
[c] "Malicious Mischief."
[d] "Drunk and Disorderly."
[e] "Illegal Car Riding."

The Lehigh Valley Railroad does not have the extensive urban territory to supervise which the Pennsylvania Railroad has. This fact, involving city courts, is partly responsible for the lower rate of convictions on the latter. The Pennsylvania Railroad prior to 1926 did not keep a complete, continuous record of arrest statistics. The available arrest material is set forth in the table on the following page.

Year	Arrests			Convictions					
	Felony	Misdemeanor	Total	Felony	Misdemeanor	Acquittal	To Other Authorities[a]	Pending[b]	Employees
1926....	1,280	10,269	11,549	867	8,734	694	1,134	94	358
1927....	1,384	10,412	11,796	948	8,892	637	935	138	285
1928....	1,303	9,955	11,258	875	8,485	703	844	167	253
1929....	1,335	9,771	11,106	781	8,226	900	914	108	257
1930....	1,929	13,153	15,082	1,332	10,731	556[c]	1,460	125	221
1931....	2,250	16,386	18,636	1,524	14,831	573[d]	1,231	1,499[e]	120
Totals.	9,481	69,946	79,427	6,327	59,899	4,063	6,518	2,131	1,494

[a] This refers to such offenders as army and navy deserters, picked up on warrants, etc.

[b] These are not carried over to the next year as arrests.

[c] To this should be added 50 listed as nol-prossed.

[d] To this should be added 2 listed as nol-prossed.

[e] This is explained as due to crowded court conditions.

The total number of arrests for all offenses for the six-year period was 79,427, of which number 69,946 were misdemeanors. The percentage of convictions for the Pennsylvania Railroad was 83.4.

The Pennsylvania Railroad files offenses against the railroad by divisions. The divisions report totals monthly to the superintendent of police at Broad Street Station in Philadelphia. In the latter place, totals are combined. At divisional and regional headquarters detailed arrest and disposition statistics are maintained.

Records

When we turn to an examination of records kept by railroad police departments there does not appear to be anything approaching uniformity. Some roads have records of the specific offense on file at the police headquarters, while others file these in the office of the substation in the area where the offense is committed. Reports to the vice-president under whom the police operate consist for the most part of the total number of felonies and misdemeanors committed or for which arrests are made monthly. These are submitted to the Protective Section of the American Railway Association and are issued to member roads in mimeographed form. It is obvious that a record of the total number of arrests listed merely as felonies and misdemeanors is of small value.

Probably as comprehensive a system of records as may be found is that of the Baltimore & Ohio, at the police headquarters in Cam-

den Station, Baltimore. The procedure on the Baltimore & Ohio is simple. When a patrolman makes an arrest he fills out a duplex report which is turned in to the captain in charge. The captain retains the carbon copy for his files and forwards the original to the superintendent of police, who makes a duplex report, retains one for his files, and forwards the other to the general superintendent of police at Baltimore. When the case is disposed of, the superintendent fills out a supplemental arrest report in duplicate and files one copy, the other being sent to the general superintendent at Baltimore. Here are filed more than 100,000 cards in alphabetical order. This file has been in existence for at least ten years. Correspondence on major offenses is also filed in the Baltimore office. Cases of trespass and other minor offenses are reported but usually are not written up with the same fullness as are felony reports. Thus it may be seen that the patrolman makes out the captain's report, who in turn makes out the superintendent's report, who in turn makes out the report for general headquarters. All offenses are numbered and are arranged alphabetically. This is also true of claims filed and of persons wanted.

These railroad arrest statistics are included in the local public police statistics also. "Crimes known to the police," which are reported to the Bureau of Investigation, United States Department of Justice, will contain the number of offenses against railroad property, since these offenders are "booked" at the public police stations and often are turned over to the local police by the railroad police, the former being credited with the arrest. In other words, the total number of offenses against railroads should not be added to the total number of offenses listed by the public police in any city or town, since they are already included.

Here are reproduced the various types of records used by the Baltimore & Ohio Railroad. The first two refer to arrests and dispositions, while the others illustrate the type of records on file in general police headquarters.

THE BALTIMORE AND OHIO RAILROAD CO.

POLICE DEPARTMENT

ARREST REPORT

.....Division
Place of Arrest.....
Date of Arrest..... Time.....M.
Name of Prisoner.....
Alias.....
Residence.....
Occupation.....
If Employe, give department.....
.....
Place of Birth.....
Naturalized?.....
Age..... Color.....
Sex.....S. M. or W.....
Charge.....
Complainant.....
Residence.....
Witnesses.....
.....
Remarks.....
.....
.....

Arresting Officer

Send this Duplicate Report to Division Captain

NOTE: The color of the form is white.

THE BALTIMORE AND OHIO RAILROAD COMPANY

POLICE DEPARTMENT

SUPPLEMENTARY ARREST REPORT

.....Division
Name of Prisoner.....
Alias.....
.....
Residence.....
.....
Date of Arrest.....193...
Charge on which tried.....
.....
Court.....
.....
Judge.....
Verdict.....
Sentence.....
.....
.....
.....
.....

Arresting Officer

NOTE: The color of the form is blue.

The facsimiles of the actual record cards filed in the headquarters of the Baltimore & Ohio Police Department in the Camden Station at Baltimore, Maryland, are presented below. In the order in which they are given, the first card is orange in color and the letters "ET" directly under the word "Police" refer to "employees of the Transportation Department." The second card is yellow, and the symbol "EO" refers to "employees of other departments." The third card is white and is used for the arrest of non-employees. The fourth card is green and contains a full description of offenders whose apprehension is sought. If the offense is a serious one the description is detailed; if minor, it is less fully written up. The fifth and last card is white and contains the various assumed names which known offenders use or have used. These cards are placed in separate files, and when the case is finally disposed of, the upper right-hand corner is clipped along the line which is seen over the words "Div. Number." Punch instructions in the upper left-hand corners of the arrest cards are self-explanatory.

IF MINOR	IF FOREIGN BORN	IF COLORED	BALTIMORE & OHIO RAILROAD POLICE DEPARTMENT RECORD OF ARREST	DIV. NUMBER
○	○	○		
PUNCH OUT	PUNCH OUT	PUNCH OUT	ET	

(Surname) (First) (Middle)

Residence.....

Where Arrested..... Date.....

Age..... Color..... Sex..... S. M. or W.....

Where Born..... Occupation..... Dept.....

Crime Charged.....

Final Disposition.....

Court..... Judge..... Date.....

Refer to File..... Arrested by.....

(ORANGE CARD)

IF MINOR	IF FOREIGN BORN	IF COLORED
○	○	○
PUNCH OUT	PUNCH OUT	PUNCH OUT

BALTIMORE & OHIO RAILROAD
POLICE DEPARTMENT
RECORD OF ARREST

EO

DIV. NUMBER

(Surname) (First) (Middle)

Residence.....

Where Arrested..... Date.....

Age..... Color..... Sex..... S. M. or W.....

Where Born..... Occupation..... Dept.....

Crime Charged.....

Final Disposition.....

Court..... Judge..... Date.....

Refer to File..... Arrested by.....

(YELLOW CARD)

IF MINOR	IF FOREIGN BORN	IF COLORED
○	○	○
PUNCH OUT	PUNCH OUT	PUNCH OUT

BALTIMORE & OHIO RAILROAD
POLICE DEPARTMENT
RECORD OF ARREST

DIV. NUMBER

(Surname) (First) (Middle)

Residence.....

Where Arrested..... Date.....

Age..... Color..... Sex..... S. M. or W.....

Where Born..... Occupation.....

Crime Charged.....

Final Disposition.....

Court..... Judge..... Date.....

Refer to File..... Arrested by.....

(WHITE CARD)

WANTED

BALTIMORE & OHIO RAILROAD
POLICE DEPARTMENT

(Surname) (First) (Middle)

Description

Remarks

(GREEN CARD)

ALIAS

BALTIMORE & OHIO RAILROAD
POLICE DEPARTMENT
RECORD OF ARREST

DIV. NUMBER

(Surname) (First) (Middle)

See

(WHITE CARD)

It should be noted in this connection that a monthly report is sent from police headquarters showing robberies and losses on all divisions. By this, comparisons may be made by division captains and superintendents—there being four of the latter. The reasoning here appears to be that a high robbery rate on any division constitutes a challenge to the police of the division, and definite rivalries for low robbery rates develop.

As mentioned under "organization," every letter written by one captain of a division to another captain of a division must be transmitted to, and is on file in, the general superintendent's office in Baltimore. Carbon copies of all correspondence, then, are on file in two places. This means that the general superintendent is familiar at all times with conditions throughout the entire system.

It may be seen that this type of record keeping differs, at least in thoroughness, from that of the Pennsylvania and Lehigh Valley roads. In both of the latter, records are efficiently kept, but there does not appear to be such importance attached to them as on the Baltimore & Ohio.

With reference to systems of identification, there appear to be differences in degree only. All roads maintain galleries of known

criminals. Some are restricted to railroad offenders. Others subscribe to private detective services, which inform the railroads monthly of the activities of certain offenders as well as of escaped and released prisoners. In some cases fingerprint records are on file, but generally speaking these records are secured from the Investigating Bureau of the United States Department of Justice, with which most railroad police departments are in close coöperation.

The value of records—systematic, simple, and complete—can hardly be overestimated. The railroads appear to have been slow to realize their importance, but during the past ten years considerable progress has been noted. Through the use of the "News Letter," issued monthly by the Protective Section of the American Railway Association, items of interest to railroad police are circulated. By such means wanted offenders may be picked up and efficient coöperation developed.

COAL AND IRON POLICE

CH. V. LEGISLATIVE HISTORY

It may be safely stated that no other police organization in recent times has given rise to such bitter and determined opposition by so many different groups as the coal and iron police of Pennsylvania. They have been denounced by press and pulpit and have been the object of intense hatred by organized labor ever since they were authorized by law in 1866, and more particularly since 1900. An understanding of the genesis of such hatred does not necessitate any extended history or intimate knowledge of peculiar or specific conditions in the coal regions or in the steel industry. The origin and continuous development of such opposition is largely labor's identification of all police with the owning interests during periods of industrial crises, and the general ineptitude of police during labor troubles, together with alleged instances of imperious disregard for the rights of individuals by police in so-called peaceful times.

A view of conditions in coal regions of other states, such as Kentucky, West Virginia, and Colorado, demonstrates the general truth of such an analysis. In each and every instance, moreover, there is overwhelming evidence of indifference on the part of the state toward the rights of citizens living in isolated communities, where State law has generally been suspended in favor of large corporations. The psychological explanation of the virtual "state of war" conditions obtaining during strikes is to be found in the autocratic arrogation of supreme authority by police agents, rarely trained or equipped to handle such situations intelligently and impartially. Labor rightly regards such police as employees of corporations, and not agents (which legally they are) of the state itself.

As has been pointed out in connection with railroad police, company police are not now, and never have been, regarded by employees or public as anything more than eyes and ears for the company. The investigator of such police can see the justification and the necessity for protection, and can clearly distinguish between company "police" and "spotter" in his own mind; but fellow employees do not—and that is the important consideration when industrial conflicts arise. It is, and must necessarily be, the case where police are hired, paid, and supervised by private

corporations. In a modified sense, labor's attitudes are the same toward public police, who too often appear as enemies to labor's cause. The soundness of labor's contention will be examined later. At this time it suffices to say that the coal and iron police of Pennsylvania have evoked their greatest opposition from organized labor, and for the reasons given.

General historical statement

To understand more clearly the rise of coal and iron police, general historical conditions will be briefly examined. They first made their appearance in Pennsylvania in the anthracite coal fields in 1866, but there were none in the bituminous fields of western Pennsylvania until 1922. The early miners in the hard coal regions were largely American, Irish, Scotch, Welsh, German, and English. The literature reveals no outstanding necessity for coal and iron police prior to 1875, beyond the requirements of protection imposed by inadequate police in isolated areas where industrial establishments were located.

The general change in the composition of the mining population from immigrants of North European origin to Slavs, Italians, Hungarians, and so forth, which took place in the anthracite regions during the last quarter of the nineteenth century, permits the inference that such a change was not accomplished peacefully.[1] It may be assumed that the infiltration of the "new" immigrant miners who were to displace the older group may have been instrumental in moving the legislature to permit corporations more extensively to employ police clothed with general police powers for the protection of property and the preservation of peace and order in communities where local police were unable to meet the situation successfully. The use of the militia appears to have been common in the anthracite region. It is likely that dissatisfaction of operators, miners, local police, and the public with such means of maintaining the public peace and protecting private property led to the creation of one of the greatest Constitutional contradictions—the coal and iron police.

The coal and iron police statute

On February 27, 1865, an act "empowering railroad companies to employ police force" was passed by the legislature. On April 11, 1866, a supplement to the Railroad Police Act was passed extending "the same to certain other companies." This supplementary act marks the origin of the coal and iron police, and

[1] Cf. Rood, Henry, "The Mine Laborers in Pennsylvania," *The Forum*, 14: 110–122, Sept. 1892.

created what was to be a close approximation to feudal retainers and a return to medieval conditions of virtual peonage and dependence for miners in isolated company patches which were legally within the Commonwealth but which functioned as separate social, industrial, and political units as far as occupants of company houses were concerned. The act read as follows:

Act extended to coal and iron companies; governor to have discretion—The provisions of the Act of 27th February, in the year of our Lord 1865, entitled "An act empowering railroad companies to employ police force," be and the same are hereby extended to embrace all corporations, firms or individuals owning, leasing or being in possession of any colliery, furnace or rolling-mill, within this Commonwealth; and that, upon the application of any such corporation, firm, or individual, the Governor may appoint and commission policemen, under the provisions of the act to which this is a supplement: Provided, That the words "coal and iron police" shall be engraved upon the shields to be worn by the policemen appointed under this act, instead of the words "railway police," as provided by the act to which this is a supplement: And provided further, That the Governor shall have power to decline to make any such appointment, sought to be made, under the provisions of this supplement, whenever the circumstances of the case, in his opinion, do not require it, and at any time to revoke the commission of any policeman appointed hereunder. (1866, April 11; P. L. 99, Paragraph 1).[2]

The outstanding difference between the Railroad Police Act of 1865 and the Coal and Iron Police Act may be seen in the last clause of the bill set forth above. The Governor may refuse ap-

[2] Pa. St. 1920, Paragraph 18,548.

A law relating to local county police requirements is summarized as follows: In order to furnish protection of person, property and life in the mining regions of Pennsylvania, the Governor was empowered to appoint police for those regions in which one hundred or more residents petitioned the Governor. The petition must be sworn to, must set forth the facts of violence and lawlessness, and must show that local police were inadequate to maintain order and bring offenders to justice. Sufficient police under two marshals were to be appointed and were to be compensated out of the treasuries of coal companies in Schuylkill County by levying one cent per ton on all coal mined in that county. The two marshals were to be paid $2,000 each and were to have powers identical with those of the sheriff of the county. All police appointed had the power and authority of constables. Both police and marshals might be removed by the Governor. Rules and regulations, rates of pay, power to arm the police, distinguish ranks, and so forth, were in the hands of the Governor. This act was to be in force for two years and the Governor was empowered to discharge the marshals or any part or all of the force when he decided they were no longer necessary. They were allowed to pursue offenders into the next county and their authority remained identical with that granted for service in the county where the offense was committed. All offenders were to be delivered to the civil authorities, to be dealt with in accordance with the laws of the Commonwealth.—Laws of Penna., 1867, No. 55, pp. 76–78.

pointment or revoke commissions at any time. The original act, of which this is a supplement, endows the Governor with no such power; hence, no railroad policeman can be removed by reference to the statute, but authority must be sought in the State Constitution, as pointed out in connection with railroad police.

Appointment under this Coal and Iron Police Act required simply a petition to the Governor requesting commissions in the names of persons submitted. There appears to have been no criterion of appointment beyond the statement by corporations that they desired commissions. By implication, both from practice and from statutory limitations, the criterion was "necessity." There appears to have been no consideration given to the reality of the necessity, nor was there any attempt on the part of any responsible authority to determine the character or fitness of the persons for whom commissions were sought. Further, there appears to have been no obligation imposed upon employing companies beyond requesting commissions. There is no evidence on the public record that commissions were refused until recently, nor is there any evidence that the State attempted to learn more about applicants than merely their names. Until 1871 there was no charge for the appointment of coal and iron police. In the fee bill of April 27, 1871, one dollar was fixed as the fee, payable to the Secretary of the Commonwealth, for each commission issued.[3]

In substance, the practice from 1871 to 1929 was simply a contract between mining companies and the State whereby police power was "sold" to the industrial establishment. When the commission was issued and the fee paid, together with a subscription of the constitutional oath, which was recorded in the proper county, the State took no further interest. There was no investigation, no regulation, no supervision, no responsibility undertaken by the State, which had literally created "islands" of police power which were free to float as the employers saw fit. There is no evidence that any Governor ever revoked a commission.[4]

It should further be noted as evidence of the superlative laxity and indifference, if not the complete ignorance, of Pennsylvania's legislators that the Railroad Police Act of 1865 and the Industrial Police Act of 1929 both require subscription of "the oath as required by the eighth article of the constitution." Article VIII is entitled: "Suffrage and Elections," while Article VII is entitled

[3] Pa. St. 1920, Paragraph 10,694. P. L. 242.

[4] There may have been such revocations, but the "public record" merely carries "canceled" and gives no reason.

"Oath of Office."[5] An inquiry addressed to the Attorney-General of the State requesting official information on this point revealed that whether it was merely a typographical error "or worse, I cannot tell you."

It seems to the present writer that even though one holds this point to be of minor importance, it is diagnostic of the general apathy and ineptitude of the State from the passage of the first private police act to the present moment. Nor can it be said to be a typographical error, since the Railroad Police Act contains the number of the article written out, while in the Industrial Police bill of 1929 it is set forth in Roman numerals.

It will be noted that the act creating the coal and iron police in 1866 does not mention citizen or character requirements, nor is there any limit set to the life of the commission. From 1871 to 1923 the fee remained one dollar, while the fee for recording commissions was fixed at $2.50 on April 19, 1899. This applied to special railroad police, but included coal and iron police since their existence grew out of an act supplementary to the Railroad Police Act.[6]

Thus, during the nineteenth century a veritable private army was created by the State and given the supreme police authority of the State without determining definitely the necessity therefor, its duties or functions, or even whether the names submitted were not in reality those of criminals. Such abdication of the State in favor of powerful interests can hardly be rationalized by such high-sounding phrases as "protection of private property," "safeguarding the interests," and so on, since it is perfectly obvious that these ends could more efficiently be achieved by a rigorous scrutiny of the character of applicants and a thorough knowledge of the need for their appointment.

No change occurred in the legislative status of coal and iron police until the administration of Governor Samuel W. Pennypacker (1903–1907), when an attempt was made to limit the life of the commission to one year, after which time renewal must be secured. Coal operators opposed this change, demanding at least five years' life for each commission. By compromise, three years was agreed upon. At present this term is the legal life of each coal and iron commission.[7]

[5] *The Pennsylvania Manual,* Harrisburg, Pa., 1929, p. 943.

[6] Pa. St. 1920, Paragraph 10,751. P. L. 61.

[7] The fact that Governor Pinchot has revoked all coal and iron police commissions in no way affects their legal existence, as will be pointed out later. It should be noted that the present statute does not specify the life of the commission, but practice has made it virtually a "legal" term.

The fee for commissions rose on June 8, 1923, from $1.00, as fixed in 1871, to $5.00. This increase occurred during the first administration of Governor Gifford Pinchot. It was also during that administration that all coal and iron policemen commissioned by the State were investigated, and wherever in the judgment of the investigator (Sergeant George W. Freeman, of the Pennsylvania State Police) any persons of undesirable character were found commissioned as coal and iron policemen, such information was presented to the Secretary of the Commonwealth, Dr. Clyde L. King, who, upon review of the information presented, notified such police that their commissions were revoked. The mass of information which was collected by the investigator who was attached to the office of the Secretary of the Commonwealth has never been published. One important investigation resulted in the revocation of all commissions granted to one of the largest industrial establishments in western Pennsylvania.[8]

On March 7, 1932, Governor Pinchot, who has often been regarded as the arch foe of the coal and iron police, wrote in answer to an inquiry as to the location of the material gathered by Sergeant Freeman: "I find no copy of the report available at this time as that investigation was made ten years ago." It may be pointed out that no one has ever seen the results of what was perhaps one of the most thorough investigations ever conducted, which was far superior to the superficial material gathered by the subcommittee of the Interstate Commerce Commission of the United States Senate in the bituminous fields in 1928.[9]

During the Pinchot administration of 1923–1927 a pledge against liquor law violation was inserted in the commissions. On April 8, 1925, the Railroad Police Act was further extended to include police employed by "*all water companies, water supply companies, water power companies, electric light companies, electric power companies, electric transmission companies, mineral mining and quarrying companies, and express companies.*" The shield to be worn by such police must be inscribed "*water police,*" "*electric power police,*" and so forth. The Governor was empowered to refuse or revoke any commissions.[10] The act does not require any reason for revocation or refusal. Neither does

[8] Several Pennsylvania Railroad Police in Pittsburgh were also dismissed as a result of Sergeant Freeman's investigation.

[9] See *Conditions in the Coal Fields of Pennsylvania, West Virginia, and Ohio,* Senate Hearings, Vol. I, pp. 1066–1067, for the experience of W. D. Reese, of McKeesport, Pa., when he attempted to secure information from the Governor's office when John S. Fisher was Governor.

[10] Laws of Penna., 1925, No. 140, pp. 214–215.

it require that the applicant be investigated, nor is there any provision for regulation, supervision, or control by the State. The commission, however, requires that the applicant be of good moral character and a citizen of the United States and of the Commonwealth of Pennsylvania. Good moral character, in the words of one of the outstanding coal and iron police and a former State policeman, means "never having been in jail." No aptitude, knowledge, or training in police work has been, or is now, required.[11] These general requirements were not incorporated in the statute until the passage of the Mansfield Industrial Police Act in April 1929. It was approved by Governor John S. Fisher on April 18, 1929.[12]

Regardless of the action of Governor Pinchot in revoking outstanding commissions in 1931 and refusing to grant any commissions for coal and iron police, the Industrial Police Act is still the law in this State. When Governor Pinchot leaves office there is no good reason for believing that his successor will not be requested to issue commissions under this statute. Nor can any improvement be seen in the present method of policing industry. In fact, there is absolutely no control over deputy sheriffs by the State, and there is excellent evidence that sheriffs in coal counties have, during strikes, collected fees far in excess of the salary of the President of the United States. Upon the testimony of residents, union miners, and coal operators, deputy sheriffs are even more undesirable than coal and iron police commissioned by the State.

Organized labor, particularly the United Mine Workers of America, with whom the coal and iron police most frequently and violently collided, have continuously opposed the system of State commissions for private police and have opposed any protection for operators which empowered guards to exercise police power. Labor has consistently maintained that coal and iron police are employed for the sole purpose of breaking strikes and discrediting union labor. Such an analysis can hardly be taken as a true statement of the facts. Union labor also opposes the use of public police during strikes, believing that differences between union labor and coal operators are of no vital concern to the public. That any act or combination of circumstances that jeopardizes the free flow of coal from the mines to industry and home owners is not a matter for public regulation and control, is a highly naïve view,

[11] Since Governor Pinchot revoked all commissions and refused to issue any more coal and iron commissions, deputy sheriffs have returned for police work in the industrial fields and no requirements are needed except right friends and political creed.

[12] Laws of Penna., 1929, No. 243, pp. 546–549.

even if sincere. No reasonable observer can deny the necessity for protection of equipment, property, and owners during strike periods, regardless of the difference of opinion as to how this protection is to be furnished.

The Industrial Police Act

The glaring abuses of police power and their brazen defense by coal operators before the Senate Committee in the bituminous fields in 1928 will be reviewed later. At this point some mention should be made of the general conditions leading to the enactment of the Industrial Police Act of 1929. While critics of the coal and iron police system thundered and threatened, an incident occurred in western Pennsylvania which galvanized all forces into a demand for immediate action. On February 10, 1929, John Barkoski, a miner and farmer of Tyre, Pennsylvania, was so badly beaten by three coal and iron policemen that he died. This proved the precipitating factor which inflamed the entire State.[13] Something had to be done. On March 12, 1929, Michael A. Musmanno, State representative for the legislative district where the fatality occurred, and one of the ablest legislators in the lower house, introduced a bill designed to curb the power of the coal and iron police.

The bill was referred to the Committee on Judiciary General of the House on March 13. It returned, amended, on March 27. The important amendments were the exclusion of the clause restricting the police to the property and voiding their police power after passing one thousand feet from "any building, structure, works, plant or equipment that may be located upon said property," and the inclusion of an extremely important clause in Section 11: "All persons arrested by policemen appointed under this act shall be taken before committing magistrates or to jails, lockups or station houses." If this latter clause had obtained at the time of the Barkoski case, the police could not legally have taken him to the company barracks. Just why the clause was not made mandatory, by stating that those arrested *must be taken immediately* before a magistrate or to a public lockup, cannot be explained by indicating that arrests may occur during the night or on Sunday.

This bill was bitterly criticized when finally presented. The

[13] See advertisement of the Liberal Party of Western Pennsylvania in *The Daily Tribune* (Johnstown, Pa.), Nov. 1, 1930. See also *New Republic*, 60: 292–293, Oct. 30, 1929, for Barkoski trial, by Eston Everett Ericson; *The Nation* (N. Y.), 129: 404–405, Oct. 16, 1929; *Pittsburgh Press*, June 27, 1930; and *The New Leader*, Sept. 28, 1929.

exclusion of the thousand-foot clause was viewed as "betrayal" by members of the American Civil Liberties Union, Pittsburgh Branch, as well as by union labor, who saw evidence that Representative Musmanno had "sold out to the interests." The first Musmanno bill had been written by an attorney of the American Civil Liberties Union, according to members in Pittsburgh. A careful reading of Section 10, however, raises a peculiar question. If these police are to be possessed of the police power conferred upon police in cities of the first class (Philadelphia) and upon constables of the Commonwealth, what meaning does such power actually have if it can be exercised only upon the property? Further, one might cogently request information on the technique of measuring the distance of one thousand feet. The thousand-foot clause was unquestionably an unfortunate inclusion, and was quite properly eliminated. The aim of the first bill was to create only watchmen. The bill should have so stated, and conferred no police power. Clothing a policeman with the full powers of the State by statute, and at the same time by the same statute denying him use of it, can hardly be said to be a very clear piece of legislation.

However, on the same day Senator William D. Mansfield, of Allegheny County, introduced a bill exactly the same as the bill Musmanno introduced in the House. It met the same fate as the Musmanno bill, as far as amendments were involved. The Mansfield bill, as amended upon second reading, March 27, 1929, and as it reads today as the law governing coal and iron police in Pennsylvania, is presented below:

Section 1. *Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania in General Assembly met, and it is hereby enacted by the authority of the same,* That the Governor is empowered to appoint and commission, under the provisions of this Act, special policemen to be known and designated as "Industrial Police."

Section 2. Any corporation, association or individual, owning, leasing, or being in possession of any colliery, furnace, or rolling mill, and any water company, water supply company, water power company, electric light company, electric power company, electric transmission company, mineral, mining or quarrying company, or express company, within this Commonwealth, may apply to the Governor to appoint and commission one or more persons as Industrial Police for such corporation, association, individual or company.

Section 3. Every application made under the provisions of this Act shall be upon a printed form prescribed and furnished by the Governor. It shall contain the names of the persons whose appointment as Industrial Police is desired; a detailed statement of the employment of such persons for three years immediately prior to the date of the application; a certifi-

cate that such persons *have been residents of this Commonwealth for at least one year immediately preceding the date of the application, and* are reputed in the communities in which they live to be honest, sober, peaceful, and orderly citizens; a certificate, signed by three reputable citizens of the Commonwealth who have resided therein for at least three years, that the facts set forth in the application are believed by them to be true; and such further information as the Governor may require.

Section 4. Upon receipt of any application made under the provisions of this Act, it shall be the duty of the Governor, acting through such especially qualified investigator or investigators as may be employed by him for the purpose, to make a careful examination as to the truthfulness of the statements contained in the application, the character and reputation of the persons whose appointment is requested therein, and the necessity for the appointment of Industrial Police or additional Industrial Police, as the case may be, for the protection of the applicant's property. The Governor may grant the application and appoint and commission the persons whose appointment is therein requested, or he may refuse any or all the appointments requested, and it shall not be necessary for him to state any reason for his refusal. *No person shall be appointed an industrial policeman hereunder who shall not have been a resident of this Commonwealth for at least one year immediately preceding his appointment.*

Section 5. Every policeman appointed under the provisions of this Act shall, before receiving his commission and entering upon the duties of his office, give bond to the Commonwealth, *with a corporate surety satisfactory to the Governor,* in the sum of Two Thousand Dollars ($2,000) conditioned for the faithful performance of his duties, and shall also take and subscribe the oath required by Article VIII of the Constitution. Such bond and oath shall be filed in the office of the Secretary of the Commonwealth: *Provided, however, That any corporation, association or individual, applying for the appointment of industrial policeman* [sic] *hereunder, may file a blanket bond, with a corporate surety satisfactory to the Governor, in an amount equal to two thousand dollars for each policeman appointed for such applicant, but not exceeding fifty thousand dollars, conditioned for the faithful performance of the duties of all industrial policemen appointed for such applicant.*

Section 6. Every policeman appointed and commissioned hereunder shall record his commission in the office of the Recorder of Deeds of every county in which he acts as such.

Section 7. The commission of any policeman appointed under the provisions of this Act may be revoked at the pleasure of the Governor, or cancelled in the manner hereinafter provided.

Section 8. The Governor shall have the power through such employe of his office, or such other officer or employe of the State government as he may designate, to investigate, from time to time, the conduct of policemen appointed under the provisions of this Act, and to require from them such monthly or other reports as to him shall seem advisable.

Section 9. Every policeman appointed under the provisions of this Act shall, when on duty, wear a uniform, approved by the Governor, and a

metallic shield containing the words "Industrial Police" and the name of the corporation, association, individual or company for which or for whom he was appointed. Such shield shall always be worn in plain view.

Section 10. Every policeman appointed under the provisions of this Act shall possess, exercise, and enjoy the powers and prerogatives conferred by law upon the members of the police force of cities of the first class, and upon constables of this Commonwealth [but such powers and prerogatives, except in the case of express companies, shall be exercised only upon the property of the corporation, association, individual or company for which or for whom he was appointed, and upon any public highway upon which such property may abut within one thousand (1,000) feet from any building, structure, works, plant or equipment that may be located upon said property, except that such policemen may guard pay rolls in transit at any place].

Section 11. The keepers of jails, lockups or station houses shall receive all persons arrested by such policemen for the commission of any offense against the laws of this Commonwealth.

Section 12. The compensation of policemen appointed under the provisions of this Act shall be paid by the corporation, association, individual or company upon whose application they shall, respectively, have been appointed, and shall be in such amount as shall be agreed upon between such policemen and such corporation, association, individual or company.

Section 13. Whenever any corporation, association, individual or company shall no longer require the services of any policeman appointed under the provisions of this Act, it or he shall file a notice to that effect with the Governor, and furnish such policeman with a copy thereof. Thereupon such policeman shall surrender his commission to the Governor. The Governor shall transmit it for cancellation to the Secretary of the Commonwealth, who shall notify the Recorder of Deeds of every county in which the policeman's commission was recorded, and such each Recorder shall inscribe on the margin of the record where the commission is recorded the word "Cancelled."

Section 14. If any policeman appointed under the provisions of this Act shall fail or refuse to surrender his commission to the Governor within five days after receiving from the corporation, association, individual or company at whose instance he was appointed, a copy of the notice sent to the Governor that his services are no longer required, he shall be guilty of a misdemeanor, and, upon conviction thereof, shall be punished by a fine not exceeding One Hundred Dollars ($100), or by imprisonment for sixty (60) days, or both, in the discretion of the Court.

Section 15. The Act approved the eleventh day of April, one thousand eight hundred and sixty-six (Pamphlet Laws, ninety-nine), entitled "A supplement to an Act, approved the twenty-seventh day of February, Anno Domini one thousand eight hundred sixty-five (Pamphlet Laws, two hundred fifty-five),[14] entitled 'An act empowering railroad companies to employ police force,'" as amended by the Act approved the eighth day of

[14] This should read "two hundred *twenty*-five." My correction. See below, same paragraph.

April, Anno Domini one thousand nine hundred twenty-five (Pamphlet Laws, two hundred fourteen), entitled "An act to amend section one of an act, approved the eleventh day of April, one thousand eight hundred and sixty-six (Pamphlet Laws, ninety-nine), entitled 'A supplement to an act, approved the twenty-seventh day of February, Anno Domini one thousand eight hundred and sixty-five (Pamphlet Laws, two hundred twenty-five), entitled "An act empowering railroad companies to employ police force,"' by extending the same to certain other companies," be and the same is hereby repealed, provided, however, that commissions granted under the authority of said act, as amended, shall remain in full force and effect for a period of six months after the passage of this act. [Brackets mean "strike out"; italics mean "insert."][15]

In order to put teeth in the Industrial Police Act, a set of "Regulations Governing the Conduct of and Reports Concerning Industrial Police" was promulgated by Governor John S. Fisher on June 1, 1929, and was amended April 1, 1930. These regulations, twelve in number, are presented below:

1. Industrial Police must confine their activities as such strictly to the protection of the property and facilities of the concerns for which they are respectively appointed, and to the preservation of order upon or in connection with such property or facilities.

2. Every concern for which Industrial Police are appointed, shall file in the office of the Governor a plan showing the location and character of the property and facilities to be protected.

3. Industrial Police must be in uniform when exercising their authority as such. Uniforms shall consist of a suit and military cap, the suit to be forest green in color. Dull bronze buttons shall be used on the coat. The wearing of puttees shall be optional. It shall also be optional during the summer season (May 15 to September 15) to substitute for the uniform coat an outing shirt, forest green in color, with black buttons and a black bow tie.

4. Industrial Police must wear their badges when exercising authority as such. Badges shall be worn on the left breast of the coat of the uniform (except that during the summer season, if an officer wears an outing shirt in lieu of a coat, the badge shall be worn on the left breast of the shirt), shall be in the shape of a shield, at least two and one-half inches high; and in addition to the words "Industrial Police" and the name of the concern for which the policeman was appointed, shall be numbered serially for each concern, beginning with number 1. These numbers shall be plainly distinguishable; and the number assigned to each policeman shall be furnished to the Governor and shall not be changed during the period of the policeman's service without notice to the Governor.

5. Industrial Police engaged upon motor cycle duty are permitted to

[15] Punctuation has been inserted for ease of reading. This bill is No. 979, File of the Senate, Session of 1929, and, as approved, is No. 243 of the Laws of Penna., 1929, pp. 546–549.

wear wind-proof leather jackets and trousers; badge to be displayed thereon according to regulations.

6. Concerns for which Industrial Police are appointed shall be responsible for seeing that they are familiar with the law under which they are appointed, these regulations and the laws for the enforcement of which they are appointed;

7. Concerns for which Industrial Police are appointed shall make monthly reports to the Governor on forms furnished by the Secretary for Industrial Police, containing such information as shall be requested on such forms;

8. Concerns for which Industrial Police are appointed shall file with the Governor, copies of their regulations for the conduct of their Industrial Police:

9. Industrial Police shall not charge, collect or receive any fees for arrests, service of warrants or other police duty, except witness fees for attending court as witnesses;

10. Industrial Police shall not use undue violence in making arrests, unnecessarily display or use weapons, or use profanity.

11. As used in these regulations, "concern" shall mean any corporation, association, individual or company for which or for whom Industrial Police may be appointed under the Act of April 18, 1929.

12. All commissions issued by the Governor under the Act of April 18, 1929, are revocable at his pleasure. Violations of any of the foregoing regulations will result in the immediate revocation of commissions.

It should be pointed out that these "regulations are to be regarded as mandatory in the fullest sense of the word." The fact is, they are not part of the law, and their violation, as such, does not constitute any breach of law, and upon discovery can only be followed by revocation of commission. The question naturally arises, If Governor Fisher seriously contemplated reform in the coal and iron police, why were these "regulations" not incorporated in the act?[16] Regulation 10 suggests the question of why any "violence" in making arrests. "Reasonable" force is never *violence*. The subjective character of the phrase "unnecessarily display or use weapons" renders it meaningless. The use of profanity obviously does not belong in any regulation of coal and iron police! One of the important regulations is number 3. The allegations of the State police that violence during labor troubles is the work of the coal and iron police masquerading as State troopers will cease if such uniforms are worn by the coal and iron police. On the other hand, the coal and iron police can more

[16] Shortly after the passage of this act, Governor Fisher's secretary told the writer: "The Governor has fulfilled his mandate from the Legislature. While not perfect, it is undoubtedly a real attempt to improve conditions. The Governor's hands are clean."

easily be identified and cannot pass the responsibility on to the State police.

It may readily be seen that the aim of the police legislation was defeated by omitting the important requirement that all persons arrested be taken to a *public* lockup or before a committing magistrate. It may be argued that in company-owned towns there is no public lockup. Such an argument is beside the point. Persons arrested could be taken to the *nearest* public lockup. It is not an unheard-of practice for coal and iron police to take arrested persons several miles, and charge the prisoner mileage, in order to "do business" with a "reasonable" justice of the peace. If there are no public lockups, such offenders could be turned over to the State police. There is absolutely no justification for holding an arrested person in a private lockup, except for his own protection. There is no evidence that such were held for their own protection, but there is excellent evidence that coal and iron police have held offenders in direct violation of Constitutional guarantees and later released them from custody without producing them before a magistrate.[17]

The effort to eliminate the coal and iron police abuses by legislation have been largely futile. Unless and until the State recognizes that property protection and preservation of law, order, and public peace can be secured only through a well-trained, thoroughly disciplined, and adequately paid State police, responsible to proper authority, but that special protection cannot be expected by industrial establishments through private police re-

[17] Organized labor greeted the passage of the Mansfield bill with the poem below:

THE CROSS

Over the grave of a murdered man
A Governor places a sign,
Not a blossom of love, nor a spray of Hope
Does he leave to a sorrowing line;
But a great white sign whose arms outstretch
To the distant ends of the State,
A broken promise,—a pledge unkept,
A double-cross of Hate.

Our hopes lie dead at the foot of a cross,
But the cross is not of our making,
And Time can mellow the deed never
The stain of this promise breaking.
And the men who work, and the men who toil,
In factory, store and mill
Will remember him whose hand made law,
This vicious Mansfield bill.

—*Labor Press*, April 27, 1929.

sponsible to no one, but clothed with State police power, the problem of policing rural industries must continue to return at every industrial disturbance.

The Pennsylvania Protective Service

Although the Mansfield Act is now in force as the law governing these police, several attempts have been made to correct the conditions since the passage of this act. Governor Pinchot promised that when he returned to office in 1931 he would abolish the coal and iron police. To that end he placed before the House of Representatives, through Representative Thomas B. Wilson, on March 9, 1931, a bill which definitely placed the coal and iron police under the supervision of the Pennsylvania State Police by making coal and iron police members of what was to be known as a "State Industrial Police" force recruited from and trained by the Pennsylvania State Police, responsible to the Superintendent of the Pennsylvania State Police and to the Governor. The bill specified that these police would be available to corporations *and unions* whenever there was necessity for their use, and that such organizations as hired them were to pay the State for their use.

As the bill came out of the Committee on Law and Order, in the House of Representatives, April 29, 1931, several notable changes were evident. These police were to constitute the "Pennsylvania Protective Service," and the Governor alone was to appoint

> the members of the Pennsylvania Protective Service which shall from time to time consist of an active list of privates sufficient in number for assignment to persons, copartnerships, associations, corporations, unions and subordinate bodies thereof applying for such service as hereinafter provided but which shall not exceed two hundred fifty men, a reserve list of privates sufficient in number to replace members of the active list on leave of absence due to vacation, sickness, disability or otherwise, and to replace members who resign or are dismissed from service or who are transferred to the reserve list, which reserve list shall not exceed in number ten per centum (10%) of the number of privates constituting the active list.[18]

No person was eligible for appointment unless he was a citizen of the United States and a resident of the Commonwealth at least a year immediately preceding his application; at least twenty-one years of age; honest, peaceful, orderly, and of good repute in his community; and unless he satisfactorily passed physical and mental examinations equal to those required of police in cities of the first class. Preference was to be given ex-soldiers, sailors,

[18] Sec. 2. File of the House of Representatives, No. 1035. Session of 1931.

and marines if equally qualified. Further, all appointees were to deliver an agreement to the Governor that they would not accept any position with organizations for whom they had performed police service, for a period of one year following termination of such service.

As amended, Section 5 became Section 3, and provided that the Protective Service should guard, protect, and prevent damage to and offenses against the property, facilities, and rights of those organizations entitled to such service, "whether then employed or recently resigned or discharged." The following Section was added as an amendment: "To protect such individuals, copartnerships, associations and corporations in their right to employ labor and to protect all persons in their right to accept, follow and at any time surrender such employment." Members of the Service were to coöperate with counties, municipalities, and State police in the detection of crime, the apprehension of criminals, and the preservation of law and order. All those corporations formerly entitled to coal and iron police protection *and*

> any union a substantial part of the membership of which is employed by one or more such individuals, copartnerships, associations or corporations and any subordinate body of any such union, shall, within the limits hereinabove fixed, be entitled to the benefits of the Pennsylvania Protective Service and the service of one or more members thereof . . .

Such organizations were to make application to the Governor on forms furnished, on oath or affirmation, describing property, location, nature, and extent, specifying reasons for such service and evidence of financial responsibility. The Governor then would verify such statements and, if satisfied, assign members of the Service; but before assigning police to applying organizations, the applicant must file a corporate surety bond of not less than one thousand dollars, payable to the Commonwealth of Pennsylvania and approved by the Department of Justice. Such bond also would condition faithful compliance with provisions of this act and also insure payment for service. Further bonds, of course, would be required as more police were sought. No applicant was entitled to the services of a particular member of the Service, and the Governor was empowered to transfer any member from one organization to another, or to the reserve list, as he saw fit, or move those on the reserve to the active list in case of emergencies. Further, the Governor "may establish by general order a system of periodic rotation of post of duty for members of the Pennsylvania Protective Service." Right of revocation for cause was vested in the Governor.

Recipients of police protection might surrender such service "after three months' notice in writing to the Governor . . . and upon reimbursing the Commonwealth for all such service rendered up to the expiration of said three months' period." The rates of payment for each policeman were to be fixed by the Governor, but were not to be less than "the average rate of compensation paid by the Commonwealth to the privates comprising the Pennsylvania Protective Service, and in no case shall the rate per man exceed one hundred twenty-five per centum (125%) of the average rate of compensation received by privates."

The rate per man was to be the amount which, when multiplied by the number of men on the active and reserve lists, would "approximately equal the cost of administering, maintaining and enforcing the Pennsylvania Protective Service." Monthly bills were to be rendered by the Department of Revenue, and 6 per cent interest charged unless paid within thirty days. The bond, of course, could be proceeded upon in cases of delinquency.

Training and instruction, suitable quarters and uniforms during the training period, arms and equipment, and rules and regulations of discipline, were to be under the jurisdiction of the Governor.

The powers of the members of the Service were those "conferred by law upon members of the police force of cities of the first class and upon constables of the Commonwealth."

No member of the Service was to be subject to the orders, commands, directions, or supervision of the organization to which he was assigned, but only "to the laws of the Commonwealth and to the orders, commands, and supervision of his superior officers of the Pennsylvania Protective Service and the Governor."

Originally the bill permitted "reasonable suggestions or requests" by employers relating to performance of duty, and members of the Service (State Industrial Police) were to comply with

> such reasonable suggestions or requests which are not contrary to the laws of the Commonwealth or to orders received from the officers of the State Industrial Police force and the Superintendent of the Pennsylvania State Police or which are not prejudicial to the safety, security, rights or property of any other person.

There appears in the above quotation sufficient difficulty to stump even a Supreme Court judge as to just what the meaning may be.

Members of the Service were forbidden to attend any meetings of directors, officers, employees, or members of employing organizations, or even be within hearing of such meetings, or close

enough to identify any participants. Nor was a member of the Service to be eligible, during his term of office or for one year following, for election or appointment, "regular or special as a sheriff, deputy sheriff, constable, deputy constable or municipal police officer."

The most amazing of all provisions is Section 13, as amended:

It is hereby declared to be the legislative intent that this act shall not be deemed to impose upon the Commonwealth any liability for loss of or damage or injury to the property of any individual, copartnership, association, corporation, union or subordinate body thereof to which one or more members of the Pennsylvania Protective Service have been assigned for duty under this act *or for injury to their officers, members, employes or any other person whatsoever, whether such loss, damage or injury was or was not caused by the act or omission of any member of the Pennsylvania Protective Service.*[19]

All organizations might use watchmen or appoint guards if they did not wish to have members of the Service assigned them.

Receiving gratuities or special advantages for service rendered members of the Service liable, upon conviction, to a fine of two thousand dollars or imprisonment not exceeding two years, or both.

As above set forth, no essential has been omitted from Governor Pinchot's solution. The coal and iron police were relegated to the past, and Pennsylvania aimed to become one of the more enlightened industrial states. Industrial crises, always violent and usually accompanied by bloodshed, were to be handled by trained police who were responsible to the Governor or some one acting for him.

This bill was overwhelmingly defeated by a vote of 142 to 43 in the House of Representatives.[20] That this bill should have been defeated is conceded. Two of its provisions were particularly objectionable: (1) the refusal of the State to assume financial responsibility for damage due specifically, unequivocally, and directly to acts of its own agents; and (2) the clause which provided that the Governor alone was to decide what police should be assigned to applicants.

It may be said that while this act represented a sincere attempt to regulate these police, it appears to have been an ill-advised and poorly drawn piece of legislation. It meant simply that the corporations were no longer the only employers of police. Unions could now hire police and fight the Devil with his own fire. Two private armies might now clash instead of one private army and

[19] Italics mine.

[20] *The Evening Bulletin* (Philadelphia), May 5, 1931, p. 1; *Philadelphia Record*, May 6, 1931, p. 2.

workers. To say that police become impartial and impersonal simply because they are police, and therefore would not in fact become mere janizaries of their employers during strikes, is to utter pompous nonsense. It is axiomatic in police work as in all other fields that the persons paying the bill are quite naturally expecting service, and such employers insist upon their own definition of what constitutes "service."

The *Labor Press,* official organ of the Pennsylvania State Federation of Labor, printed the following on May 9, 1931:

Governor Pinchot's bill abolishing the coal and iron police and setting up a protective force was defeated in the House today, 142 to 43.

During debate the measure was called "legally, equitably and humanly wrong." Representative Musmanno, Allegheny, declared if the bill passed and was signed by the Governor his name would "become a hissing byword throughout the State."

Attacks against the Governor's bill came from some of his own supporters.

Representative Baldrige, of Allegheny County, said he was beginning to doubt the sincerity of Pinchot on the coal and iron police matter. He charged that after conviction of a coal and iron police officer during the Governor's first administration the man was pardoned by Pinchot a few days after being sentenced for assault.

Musmanno Leads Attack

However, it was Musmanno who delivered the hardest blows against the bill. Musmanno is the author of another bill to regulate the coal and iron police. This measure already has passed the House and is in the Senate. Musmanno said the administration bill debased the State by selling out its power. He added:

"He says there is nothing wrong about this bill. Do you know that under its provisions people who are injured, the families of people who are killed and the owners of property destroyed by these police will have no redress?

"The bill specifically states that the Commonwealth shall not be responsible for any damage caused by these police and our Supreme Court has repeatedly held that corporations are not responsible for the acts of State officers even though paid by them.

No Remedy for Victim

"Think of a bill so designed that an innocent person may have his house burned down or his body mangled by individuals in the pay of private interests and yet not be permitted to sue in the courts of the Commonwealth for damages sustained. A woman's husband and breadwinner of the family may be murdered and yet under the provisions of this act the doors of the courts of civil justice are slammed in her face. Is there nothing wrong with this bill?

"I hereby denounce the system created by this bill as malignant and vicious, as sinister and diabolic. It is a throw-back to the private police, to the gold-bought bravos of the great feudal lords. I do not think the sponsor of this bill is fully aware of the dragon's teeth that this system would sow. It is infinitely worse than the original coal and iron police system."

Representative Thomas Wilson, of McKean County, spoke in favor of the bill.

Philadelphia, Allegheny County and the coal regions voted almost solidly against it.

The Musmanno bill

While Governor Pinchot's Protective Service legislation was rejected by the legislature, Representative M. A. Musmanno's bill, stripping coal and iron police of all power except on the property of the employer and designating such police as "property guards," did not fare much better. On January 20, 1931, Representative Musmanno introduced in the House of Representatives the bill, which may be summarized as follows:[21]

Corporations were authorized to appoint "one or more persons as property guards for the purpose of protecting the property, facilities and rights of such person, copartnership, association or corporation and to preserve order within such property and the safety, security, rights and property of their officers and employees." The court of quarter sessions of the county wherein the guard was to be employed must approve the appointment. A record of the employment of the appointee for the five years preceding appointment must be furnished the attorney-general, also certification of residence for three years in the State immediately preceding appointment, and that he held no other police authority. Three reputable citizens of the Commonwealth who had resided in the State at least three years must certify that the appointee was honest, sober, peaceful, and orderly, and not more than one of these indorsers might be employed by the organization appointing the guard. The appointee must be a citizen of the United States. After the court of quarter sessions and the attorney-general approved the appointment it was to be recorded in the office of the recorder of deeds of the county in which the guard was to serve.

A bond of $2,000 must be furnished by each property guard "for the use and benefit of all such persons as may be injured or damaged by the illegal acts or neglect of such property guards." The usual oath to support, obey, and defend the Constitution of

[21] Including amendments added by the Committee on Judiciary General of the House and of the Senate, March 17, 1931, and May 20, 1931.

the United States and the Constitution of the State of Pennsylvania was required, and both bond and oath were to be recorded with the recorder of deeds in the county wherein the guard was to be employed. A blanket bond of $50,000, satisfactory to the attorney-general, was permitted.

Any person injured by reason of the guard's failure to observe the conditions of the bond were to be permitted to sue for damages on the bond in the name of the State.

Complaint by the attorney-general, the district attorney of the county, or any person injured, for cause shown "after due hearing by the court of quarter sessions of the county for which he was appointed to serve of which he shall have due notice and an opportunity to be heard," would, if confirmed, result in cancellation of appointment.

Investigation under the direction of the attorney-general of the conduct of property guards "from time to time," and reports were provided for in Section 8.

Distinctive uniforms and badges, unlike those of any other police organization, were to be worn. The shield was to be inscribed "Property Guard" and was to bear the name of the employer. "Such shields shall always be worn in plain view."

Section 10, which enumerated and specified the powers of property guards, was struck from the bill by the Senate Committee on Judiciary, and it was difficulty over this Section that led to the defeat of the bill. Originally, this act restricted the police to the property and authorized exercise of police power only on the property and in connection with offenses affecting the employer. Off the property, the guard was merely a private citizen and was not permitted to carry firearms or other weapons belonging to the employer, although provision was made for protection of payrolls in transit at any place or of "the transmission line of any electric power company" or of any person being conveyed "to any committing magistrate or to any public jail, lockup or station house." For these purposes firearms might be carried while no longer on the property. Guards were authorized to arrest on warrants issued by magistrates, aldermen, or justices of the peace when the offense was committed on the property of the employer, and also to arrest without warrant "any person guilty of disorderly conduct or caught in the act of committing any misdemeanor or felony upon the property of such person, copartnership, association or corporation."

The above provisions of Section 10 were completely deleted, and in their place the Committee inserted what was formerly delegated to coal and iron police: powers and prerogatives of

police of cities of the first class and constables, "but only in connection with the rights and property of the employer or of the employees of such employer." It is obvious that the omission of Musmanno's provisions and the insertion of the Committee's amendment emasculated the bill in effect and added confusion as to meaning with reference to jurisdiction and definition.

Probably one of the most important provisions of the act was the original Section 12, which upon amendment of Sections 10 and 11 became Section 11. There is good reason to believe that this provision should be police law not only in the coal fields but wherever police are employed, whether by State, city, or private employer. "All persons arrested by property guards appointed under this act shall be immediately taken before committing magistrates or to public jails, lockups or station houses and the keepers thereof shall receive all persons arrested by such guards."[22]

Compensation of guards was to be a matter entirely between the guard and the employer, and upon termination of service the employer was to notify the Department of Justice and the recorder in whose office the bond and oath were recorded, who was to mark the record "canceled." If, after cancellation, any guard continued to perform duties or wear uniform or badge provided by the act, penalty of $100 or imprisonment, or both, at the discretion of the court, was provided. No sovereign power of the Commonwealth was delegated or was to accrue to property guards, and employers were to be responsible for the acts of their guards while the latter were "acting or purporting to act in their official capacity." These last two provisions were deleted by the Committee on Judiciary General.[23]

While the Mansfield Act does not require that offenders shall be taken to the nearest magistrate, that act, even as the Musmanno bill now under discussion, confers general police powers as possessed by police of cities of the first class. A city of the first class is a city with more than one million population—Philadelphia being the only city of that class in Pennsylvania. Thus coal and iron police have the *same power*, but not the same obligations in the use of that power, since "any police officer or constable of the City of Philadelphia . . . [shall] take the person arrested for a hearing to the office of the alderman or magistrate nearest to the place where said arrest [has] been made, except when the

[22] See comment on this point in analysis of the Mansfield Act, p. 71.

[23] The original and amended bill is No. 1, Session of 1931, File of the House of Representatives, Senate Reprint, Printer's No. 1188.

person shall be arrested for intoxication, in which case the intoxicated person shall be taken to the station house. . . ."[24]

Representative Musmanno insisted that general police powers should not be delegated to these guards, but through the efforts of Senator William S. Rial of Westmoreland County the general powers provision was inserted. Senator Rial further maintained that arrests should be permitted "when any one's conduct indicated intent to commit a felony or misdemeanor on company property." He offered to agree to an amendment permitting pursuit of offenders off company property for the purpose of arresting them. Representative Musmanno offered to allow the Senator to write "his own provisions as to the powers they should have on the property; he refused that."[25] Musmanno's refusal to agree to delegation of "sovereign powers of the Commonwealth" created a difference of opinion that led to the death of the bill after it had passed the House of Representatives.[26]

. . . . . .

No further analysis of the legislation designed to solve the police problems of industry in Pennsylvania is necessary. Governor Pinchot's solution in the light of history and the reaction on the part of public, labor, legislators, and operators, makes it quite clear that there was no one, with the possible exception of the State police, who really believed that the administration's legislation was desirable or that it would be effective. In fact, organized labor, from the moment the bill appeared until it was finally rejected, opposed it.[27]

The *Labor Press* denounced the Governor's Protective Service. Five men representing the State Federation of Labor, the United Mine Workers, and the Pennsylvania Civil Liberties Union "united in declaring a preference for the Musmanno bill." Clergy and interested welfare workers declared a preference for the latter bill during the hearings which were held. Since Governor Pinchot has repeatedly enounced his sympathy for labor and his espousal of liberal social legislation, it is extremely difficult to discover the source of his conviction that an auxiliary of labor's traditional enemy—the State police—could be acceptable to those who perforce must live under such police jurisdiction.

Since the Wilson bill sponsored by the administration failed of passage, and since the property guard measure introduced by

[24] Laws of Penna., 1869, No. 1180, p. 1187.
[25] *The Evening Bulletin* (Philadelphia), May 28, 1931, p. 23.
[26] *Labor Press*, May 23, 1931, pp. 2, 7.
[27] *Labor Press*, March 14, 1931, pp. 1, 7.

Representative Musmanno and supported by labor died in the Senate Committee after passing the House by a large majority, Governor Pinchot invoked the statutory clauses empowering him to cancel commissions or refuse to grant commissions, in order to abolish the system. Thus, on June 30, 1931, issuance of commissions for coal and iron police, legislatively known as "Industrial Police," was discontinued and all outstanding commissions were revoked.

CH. VI. THE ATTITUDE OF ORGANIZED LABOR

While the direct reasons for the passage of the Coal and Iron Police Act of 1866 can only be inferred, there is good reason to believe that general labor conditions in the anthracite fields and the absence of adequate police protection for both property and life were instrumental in calling attention to the absence of law enforcement in isolated mining regions.[1]

The coal and iron police are first mentioned in connection with the Molly Maguires. The Molly Maguires will not be analyzed at this time beyond an expression of the writer's belief that members of this group were not martyrs to the cause of labor freedom,[2] but were more essentially vested interests seeking to maintain a strangle-hold upon the anthracite fields through terrorism and elimination of all conscientious objectors. The guerrilla warfare of the 1870's, which finally came to a dramatic end through the efforts of Pinkerton detectives and the coal and iron police, was symptomatic and diagnostic of the unrest and ferment which has ever accompanied the presence of an alien group in control of an area where techniques, sentiments, attitudes, and values drawn from totally different cultural settings are imposed upon another group.

There is no evidence to support the thesis that the coal and iron police were particularly inimical to the peace and safety of miners during the early days of their existence.[3] During the strike of 1871 it is alleged that police were unable to quell disturbances at a circus in Hyde Park, and a detail of soldiers was dispatched to the scene. One of the outstanding methods of meeting and suppressing disorder during the nineteenth century, and also during the great strike of 1902, was the calling of the militia to take charge of the area where labor troubles were occurring. Inferentially, at least, the local police were weak and the coal and iron police inadequate.

The Welsh miners who came to the anthracite fields in the seventh decade of last century found the Irish and German miners in control. The intrusion of these "foreigners" threatening the

[1] Smith, Bruce, *The State Police*, N. Y.: The Macmillan Co., 1925, pp. 32–34.

[2] Cf. Bimba, A., *The Molly Maguires*, N. Y.: International Publishers, 1932.

[3] See *ibid.*, p. 89, for statement by General Albright, special prosecutor assisting the district attorney in the trials of the Molly Maguires.

control of the group in possession increased the hostility and conflict which blazed forth in the Molly Maguires. While the operators refused to discuss wage increases over 86 cents per car, and the miners demanded $1.31 for the same output, during 1871, we find the German and Irish miners forming vigilance committees to protect themselves and, if possible, secure control of the mines.[4]

That the German and Irish miners were motivated less by the cause of labor freedom than by consolidating their power and developing extensive control, is to be seen in their summary treatment of the Welsh. The Welsh were the principal miners at Hyde Park in April 1871. The Irish and Germans arrayed to "drive them 'peaceably' from the mines."[5] The growing hostility between the miners already in possession and the intruders gave rise to serious crises, which, without police for preservation of peace and order and protection of property, and of persons not involved in the disputes, would have developed into a barbaric struggle. A writer for the Philadelphia *Public Ledger* sent the following account on April 8, 1871: "The troubles in the coal region have culminated in riots at Scranton, where bands of armed men on Thursday night and yesterday went about, destroying property and compelling a suspension of work at such of the collieries as were in operation." "In charge," if such a phrase may be used, of the miners' organization was the Grand Council of the Working Men's Benevolent Association.[6] It was said that 30,000 miners and laborers in the anthracite fields of Schuylkill, Columbia, Luzerne, Lehigh, and Carbon counties were enrolled.

Accounts of riots, destruction, and intimidation by striking miners occur regularly during labor troubles and are vociferously alleged by labor leaders to be the work of the employers to discredit the unions, and are equally vociferously denied by the owners. That much of this is true, even if unprovable, cannot be denied. The owners' interests, July Fourth and Labor Day aside, and those of labor are not and cannot be identical. That both pursue the same general economic philosophy is correct, and that the ways and means to achievement are often similar is also correct. But the triumph of one means the defeat of the other, so that labor's interest remains the defeat of the owner in a strike, and the defeat of the strikers, the interest of the owners. In order to accomplish this laudable aim, dynamite, ambush, murder, arson, and thuggery are introduced on both sides. To 1904, such

[4] *Public Ledger* (Philadelphia), April 24, 1871, p. 1. [5] *Ibid.*
[6] *Ibid.*, April 13, 1871, p. 1.

an analysis, with minor modifications, has been the history of Pennsylvania's anthracite coal region.[7]

On May 3, 1871, at Tripp's Slope, work was carried on with a squad of soldiers in the neighborhood for security of the workers and prevention of disorder.[8] Incendiary fires, whose origin is usually a matter of speculation, although both unions and owners vigorously accuse each other, broke out during the strike of 1871 and operators were reported as "using great precautions." [9] Wives, mothers and sisters of miners could be counted upon to lend healthy support to dissatisfied labor. The mine laborers were not always amenable to the enlightened self-interest of their immediate superiors—the miners. Bitter dissension over number of hours, kinds of work, and rates of pay which the miner would pay his laborers created further chaos. Shootings, beatings, and violence marked the clashes between these two wings of the same group.[10]

Besides the cultural differences giving rise to violent conflict, the emotional release of many lately arrived from countries where they were little better off than serfs, the isolated and elemental character of the regions where the mines were located, plus the extremely hazardous nature of the work at poverty wages, all combined to make imperative police protection which, while not specifically and legally military, would function as an army does function.

The relations between the operators and labor were embittered by the presence of the coal and iron police. The police were regarded as spies for the company and were believed to be "active in ferreting out all movements looking toward a reorganization of the union" following the collapse of the Miners' and Laborers' Benevolent Association, formerly known as the Workman's Benefit Association, as a result of the union's defeat in the "long strike" of 1875. "When miners held meetings in the schoolhouse of the mining villages, they charged that coal and iron policemen [Philadelphia and Reading Coal and Iron Company] could be seen skulking about the buildings eavesdropping." Police opened doors into secret meetings at hotels, and those attending such meetings fully expected to be discharged.[11] The American Federation of Labor demanded abolition of "mercenaries, such as the coal and iron police." It denounced the "prostitution of the police

[7] Watts, Ralph L., *Rural Pennsylvania*, N. Y.: The Macmillan Co., 1925, pp. 128–129.

[8] *Public Ledger* (Philadelphia), May 3, 1871, p. 1.

[9] *Ibid.*, April 10, 1871, p. 1.

[10] *Ibid.*, May 10, 1871, p. 1.

[11] *Publications of the Historical Society of Schuylkill County*, 4: 168–170, June 1912.

power of the country by employers of labor and corporations, in intimidating workingmen and officers of labor unions when engaged in strikes."[12]

Sporadic and intermittent conflict with police occurred until 1900. The railroad strike of 1877 was accompanied by much violence, and again the "regulars" under General Hancock were sent into Reading, "who with the assistance of a few brave and determined coal and iron police from Schuylkill County" repaired rails which had been torn up and railroad equipment which had been destroyed.[13]

The strike of 1902

If the nineteenth century may be characterized as "long violence," the first years of the twentieth century may be characterized as "decisive violence." The strike of 1902 was probably one of the most important conflicts in the history of coal mining in this country. The occasion of that strike was the demand by the United Mine Workers of America for an increase in wages, and payment for coal by weight wherever practicable and then paid by car. Probably the deeper causes were to be found in the organization's desire for recognition by the operators. The strike of 1900 had resulted in a 10 per cent advance in wages for all classes of mine workers. This increase had further intensified the conflict, so that on May 12, 1902 the work was suspended, and on the 15th, 57 per cent of the convention voted to continue the strike.[14]

The strike, which began peaceably enough, developed into one of the most violent collisions between capital and labor this State has experienced. By August it was estimated

> that the coal and iron policemen now guarding the idle collieries in four counties of the anthracite region number 5,000. The employment of so many special guards has necessitated an expenditure by the companies to date of $1,800,000. Besides paying the special policemen a daily wage, the companies supply them with food and lodging. Every coal company in the district and nearly every washery has its quota of police."[15]

Governor Pennypacker stated that there were 570 coal and iron commissions issued in 1901 and 4,512 commissions were issued in

[12] *Report of Proceedings of the Tenth Annual Convention of the American Federation of Labor,* held at Detroit, Mich., Dec. 8–13, 1890, p. 34.

[13] *The Sun* (Baltimore), July 26, 1877, p. 1.

[14] *Report to the President on the Anthracite Coal Strike of May–October, 1902, by the Anthracite Coal Strike Commission,* p. 36.

[15] *The Sun* (Baltimore), Aug. 23, 1902, p. 9. The Central Labor Union of Scranton had attempted to secure pledges from candidates to the State legislature to vote for repeal of the coal and iron police law. *Ibid.,* July 7, 1902, p. 2.

1902. In 1903 and 1904, there were 186 and 187 respectively.[16]

The chief source of conflict in 1902, as in most strikes, was between the strikers and imported strike breakers. Police attempting to maintain peace and order and prevent destruction of property must, in the nature of the case, provide protection to the strike breaker. Furnishing such protection at once identifies the police as agents of the company. The union miner on strike quite properly resents the presence of any one who takes his job. The coal and iron police during the strike of 1902 were not, so far as the evidence reveals, chiefly responsible for the rioting, murdering, arson, and general destruction of property. The report of the Anthracite Coal Strike Commission appointed by President Roosevelt stated:

> The employment of what are known as "coal and iron policemen" by the coal-mining companies, while a necessity as things are, militates against the very purpose for which they are employed. Although the testimony before the Commission proved that, as a whole, the coal and iron policemen were men of good character, there were a sufficient number of bad characters, taken from the cities, to discredit the efforts of the whole body. The employment of this body of police is authorized by law, but they are really the employees of the coal companies, and thus do not secure the respect and obedience to which officers of the law are entitled. Their presence is an irritant, and many of the disturbances in the coal regions during the late strike grew out of their presence.[17]

The Commission suggested a "regularly constituted constabulary, appointed and paid by the county or State." [18] Governor Samuel W. Pennypacker also suggested that ten State police in each county would be more effective than the employment of private police.[19]

The experience of the miners during this crisis accentuated their contempt for the coal and iron police. John Mitchell claimed that most of the disturbances were caused by the coal and iron police. If the miners suffered at the hands of these police, the police did not enjoy much better treatment from the miners. Mr. Mitchell, speaking in the Third Regiment Armory in Philadelphia, before three thousand people, charged that George Baer, President of the Philadelphia and Reading Railway Company, had "taken from Philadelphia the largest portion of the criminal classes that

[16] Pennypacker, S. W.: *The Autobiography of a Pennsylvanian* (Governor, 1903–1907). Philadelphia: John C. Winston, 1918, pp. 349–350.

[17] Pp. 83–84.

[18] *Ibid.*, p. 84. The Pennsylvania State Police was created in 1905 for the purpose of replacing the coal and iron police.

[19] Pennypacker, S. W.: *op. cit.*, pp. 530–532.

formerly resided here and now has them commissioned by the Governor of Pennsylvania as coal and iron policemen. Philadelphia criminals are now preserving the law in the coal fields." [20] President Baer declined to answer Mitchell's charge. Mitchell denied that the strikers had killed twenty persons, saying that only seven had been killed, and three of these by coal and iron police.[21]

There appears to be some justification of Mitchell's charge that the coal and iron police were recruited in the cities. The Philadelphia *Public Ledger* on October 21, 1902, in a dispatch from Hazleton, printed the fact that deputies and special police were being discharged by various coal companies and that "most of these officers were recruited in the big cities, to which they are returning as fast as they are relieved." Thus the strike which began May 10 ended with a viva voce convention vote October 21, 1902. Some twenty nationalities and dialects among 147,000 miners working for 75 coal companies, tells something of the difficulties involved.

It is not possible even at this time to assign responsibility for the violence and destruction which occurred during the anthracite strike of 1902. Any attempt to analyze the causes of the outrages committed would give rise to charges of bias. In the anthracite region residents who were not owners or miners wrote their impressions freely. There was no agreement among them. Dr. William Kennedy, writing to the Philadelphia *Public Ledger* on September 20, 1902, believed that "the way to end the strike in short order . . . is to send more companies of soldiers, instruct those groups of lawless fellows who act like anarchists . . . that if they don't disperse within a specified time they will be scattered by military force." This, despite the fact that the entire National Guard was sent into the region and failed to bring order. Criticism of the coal and iron police may be seen in a letter to the *Public Ledger and Sunday Philadelphia Times* on September 7, 1902, about six weeks before the strike ended. The letter was sent from Wilkes-Barre, in the heart of the anthracite fields, and was signed "R. X. L.":

> No careful observer can visit the anthracite coal regions at this time without being impressed with the fact that "the foreigners" are not wholly to blame for all the disturbance. They undoubtedly are to blame for their share of it, but it is only fair to say that the foreigners are by no means the aggressors. From the very beginning of this strike the coal and iron police, employes of the companies, have taken every opportunity to create

[20] *Public Ledger* (Philadelphia), Sept. 27, 1902, p. 1.
[21] *Ibid.*, Oct. 4, 1902, p. 3.

trouble with the strikers, and since the troops have arrived these special company police have become more open and daring in their efforts to make trouble in order to secure troops in places where there are no troops now.

But what else can be expected from the coal and iron police? It is a well-known fact all through the coal fields that these men, coal and iron police, are the toughs of this region. They are, as a rule, men having nothing at stake but their wages, which are $4 per day. The operators pay no regard to the character of the men they employ to uphold the law. As far as the operators are concerned they care not, so long as the coal and iron police break the strike.[22]

Whether one entirely agrees with the analysis set forth in this letter, matters little. From a review of the literature of the strike, the conclusion is inescapable that the presence and the activities of the coal and iron police contributed in no small measure to the bitterness and the violence of the struggle. Perhaps the *Public Ledger* offers the safest and clearest view in its statement that "both parties in the contest have been sinned against as much as sinning," [23] if one adds that the striking miners, with characteristic determination, were fully prepared to destroy the owners and their hirelings if the occasion arose, and the same was equally true of the owners.

It should be noted in passing that the coal and iron police rarely become "news" except during strikes. Pennsylvania's labor history has not been such that either capital or labor should feel particularly proud. The coal and iron police are caught between these two forces, since by the dual nature of their status (employees of private capital and public police officers) they are necessarily the enemy of organized labor. Labor has charged the State police with the same crimes it has heaped on the luckless heads of these private police. The fact of the matter is that any and all police, regardless of public or private employment, constitute obstacles in the way of a militant labor group seeking victory, and hence are guilty of ruthless disregard of the rights of individuals, especially the union laborer on strike.

The strike breaker constitutes a different sort of enemy. While there appears little question of the *legal* right of any man to seek, secure, and maintain employment under conditions regarded as free and satisfactory to himself, the morality of such employment, regardless of his family's needs, leads to such unlovely appellations as "scab" and certain unprintable names. Since coal and iron police exist to protect the property of the owners and to provide reasonable assurance that mines will be worked even during strikes, it follows that the most difficult of the duties is to furnish

[22] 2nd sec., p. 9. [23] Sept. 1, 1902, p. 1.

protection to the strike breaker. By furnishing this protection, which their oath of office requires them to furnish, they expose themselves to the caustic criticism of labor and public opinion, neither of which, it would appear, has ever attempted an impartial, impersonal examination of the facts.[24]

Deputy sheriffs, although used as police in mining regions, are not properly a part of the present report. Sufficient will be given, however, to indicate their place in Pennsylvania's private police.

The strike of 1910

The anthracite coal strike of 1902 necessitated Federal action, as has been noted. In 1910 similar investigatory action was taken in the Miners' Strike in Westmoreland County.[25] This strike involved thirty companies. The number of strikers was 10,631. The strike was sanctioned by District 2 on the East and District 5 on the West, but the international headquarters of the United Mine Workers of America forbade it because of lack of proper organization. The usual number of injunctions against marching past the mines and villages and intimidating strike breakers were issued. The strikers settled in camp colonies near the property, but were ordered to move on. Three thousand deputy sheriffs were employed during the strike, although 490 was the largest number on duty at any one time. One thousand miners were arrested and fined for trespass or disorderly conduct. Twenty-two of the thirty companies affected had deputies. Very few coal and iron police were employed, and in most cases these were company officers or regular employees. "Some of the companies had at each of their mines four or five such policemen, some a smaller number, and some did not have any." [26] During this strike the injunction issued against the strikers forbade their coming "near" the mine or mine village. The interpretation of "near" was "within about half a mile, or within seeing or hearing distance." [27] Strikers were also forbidden to use public highways to or past the property.

The Sheriff of Westmoreland County maintained that furnishing deputies was outside his regular duties, and thus he was free to enter into individual contracts with the companies at prices agreed upon between himself and the company. He charged the companies four dollars per day for each deputy, and paid the men

[24] See Michelson, M., "Sweet Land of Liberty," *Everybody's Magazine*, 28: 615, May 1913, for an extreme statement.

[25] *Report on the Miners' Strike in Bituminous Coal Field in Westmoreland County, Pa., in 1910–1911.* House of Representatives, Document No. 847.

[26] *Ibid.*, p. 16.

[27] *Ibid.*, pp. 60–61.

himself. This is still a common practice, and in one recent instance the sheriff of a coal county was reported to have received $30,000 in one month as his share of his deputies' salaries. Needless to say, these deputies are not police, either by training or by temperament. Detective agencies will gladly furnish men to the sheriff when needed, although the great majority are political hangers-on, as in the strike of 1928.

Sheriff J. E. Shields of Westmoreland County issued the following proclamation during the strike in that county in 1910. Without invoking economic motives, the reader may analyze its meaning for himself:

> W. J. Tanney, who is head of the Tanney Agency in Pittsburgh, and his son have been appointed by the court as deputy constables with a lot of others whom he employs, who are only a conflicting element in bringing about the proper conditions of peace in this county and are a dangerous element in any community where peace is required. I therefore demand that they keep away from any trouble district over which I am high peace officer.[28]

The Greensburg Detective Agency and a Pittsburgh detective agency furnished about 450 deputies. Through a disagreement over the amount of his commission, the sheriff discharged them and advertised for others.[29]

No comment seems necessary to indicate the thoroughly lawless methods of personnel selection. It should be mentioned that many hired were not even citizens as required by the Act of May 29, 1893, which came as a result of the Pinkertons' activities at Homestead, about which more will be said in the section on detectives.

Even though one thousand miners were arrested and fined, the sheriff's own deputies did not escape unscathed, and certainly neither did the sheriff. Six deputies were arrested for trespass, but the sheriff refused to commit them after conviction by the justice of the peace, claiming that deputies could arrest on posted property when armed with warrants. He was indicted by the Grand Jury for malfeasance, convicted, and sentenced to the penitentiary for thirteen months. Later a charge of embezzlement was sustained against him, and for this crime he was sentenced to the penitentiary for fifteen months. While appeals were pending, he was elected county commissioner. The case went through to the Supreme Court, where the decision affirmed the lower courts.

[28] *Report on the Miners' Strike in Bituminous Coal Field in Westmoreland County, Pa., in 1910–1911.* House of Representatives. Document No. 847, p. 101.

[29] *Ibid.*, pp. 95–96.

and on May 11, 1912, he was committed to the Western Penitentiary.

The sheriff claimed that the prosecutions were due to the malice of the operators, who had dispensed with deputy sheriffs and had hired deputy constables and coal and iron police "because he would not permit the deputy sheriffs to use the force in quelling the strike which the operators declared was necessary."[30]

The sheriff in this defense of his actions has much in his favor. Although judicial decrees such as injunctions have the force of law, it cannot be maintained that they find a ready response of obedience and respect by even a majority of the people. Labor injunctions have been one of the most difficult problems in labor's history. The necessity for the labor injunction does not appear to be valid. So long as a remedy at law exists, particularly for trespass, assault, and destruction of property, such remedy should be invoked. To say that strikes constitute veritable warfare is no justification for lodging legislative power in the hands of a judge who by training, status, orientation, and general philosophy of life is most definitely a member of the owning group. And further, to require peace officers to carry out the provisions of the injunction when lawyers do not understand them and even judges disagree, is to make law and order during an industrial crisis a travesty upon plain honesty.

Sheriff J. E. Shields of Westmoreland County issued the following proclamation on April 1, 1911:

> As high peace officer of Westmoreland County, I wish to remind the striking miners of the injunction issued by the court enjoining them from marching to or near or assembling near some of the coal companies' property in this county, and request that they do not violate any of these injunctions under penalties which the law prescribes in such cases where they are found guilty by the courts.
>
> I also hereby notify all officers sworn in by me and all other officers not to forcibly stop any peaceable parade anywhere in this county. It is true that an injunction has been issued prohibiting marches under certain circumstances, but the offended parties have their remedy at law of which you and I cannot be the judges. My experience of a year has convinced me that more disturbance and bloodshed is occasioned by attempting to prohibit these marches than if they were allowed to proceed and answer to the court afterwards, which is the peaceable method in my mind. Influence will be brought to bear on all deputy constables, coal and iron police, and State police to disregard this notice. But I am commissioned by the Commonwealth of the State of Pennsylvania as the highest peace officer

[30] *Report on the Miners' Strike in Westmoreland Coal Fields in Westmoreland County, Pa., in 1910-1911.* House of Representatives Document No. 947, p. 21.

of Westmoreland County and no authority can go higher in this county as long as I behave myself (which is the exact wording of my commission).

So, officers, govern yourselves accordingly.[31]

At the present time, any labor leader proposing the same type of action would stand an excellent chance of being jailed and, if an unnaturalized alien, deported. Nevertheless, Sheriff Shields spoke a profound truth in stating his conviction that more bloodshed was occasioned by attempts of police to carry out provisions of injunctions which are regarded as designedly inimical to the cause of labor, than if parades were permitted.

Without any attempt to present all the strikes that have taken place in the coal fields or to catalogue the innumerable charges brought against the coal and iron police, it seems not altogether unprofitable to examine some of the more violent collisions which have occurred. We have already glanced at two crises which called for Federal investigation. In both of these, attention was turned to the activities of the coal and iron police and their relation to the success or failure of organized labor to achieve its objectives. Inherent in all labor struggles in this State, besides the fundamental differences of capital and labor, have been the attempts of organized labor to secure recognition in the coal regions, and, having won recognition, to consolidate its strength and prevent any weakening of its power by the operators.

The United Mine Workers of America was formed on January 25, 1890, by the amalgamation of the National Progressive Union of Miners and Mine Laborers and the National Trades Assembly 135, the Knights of Labor, the two branches having 17,000 members. Each retained its name as a branch of the union until 1894, when distinction was dropped and the United Mine Workers of America came into existence. In the anthracite fields the United Mine Workers of America began organization in 1900.[32] Strikes occurred in the anthracite fields in 1900, 1902, 1906, 1912, and 1922. There have been other minor disturbances in the anthracite region, but these are perhaps the most important, exclusive of strikes since 1922.

The United Mine Workers of America has been successful in maintaining its control in the hard coal region by virtue of legislation which practically requires membership in the union in order to secure a license as a miner. We are not here concerned with the legislation beyond pointing out that it has been instrumental

[31] *Report on the Miners' Strike in Bituminous Coal Field in Westmoreland County, Pa., in 1910–1911.* House of Representatives, Document No. 847, pp. 102–103.

[32] *New York Times,* March 27, 1922, p. 3.

in keeping out non-union miners, who by gradual and quiet infiltration might have undermined the control and the organization of the United Mine Workers of America.

Whereas a strong organization under competent officials obtains in the anthracite region, the same can not be said of the bituminous fields in Western Pennsylvania.

The strikes of 1922

The year 1922 produced 1,807 strikes in Pennsylvania alone. More than 389,000 workers were involved, and estimated wage losses totaled $208,000,000. In the hard and soft coal regions 322,806 men were on strike, losing $190,000,000 in wages.[33] This was the year of the famous shopmen's strike, which does not directly involve the coal and iron police. During this year the Herrin massacres occurred in Illinois. Indeed, this particular year yielded more chaos and violence than any other year. They extended over the entire country.

In Pennsylvania, in Somerset County especially, the crisis was acute. In a report submitted to Mayor Hylan of New York City, David Hirshfield, who, together with investigators appointed by Mayor Hylan to visit the Berwind coal mines,[34] made a first-hand survey, wrote that conditions were worse than in the days of slavery. The report stated:

> From the time the committee arrived in Johnstown until it left, it was constantly under the surveillance of the spies of the coal companies; the rooms of the committee were ransacked and even their mail tampered with, and everything possible was done to make the stay of your committee as uncomfortable as possible. It appeared the Berwind Coal Mining Company maintained a force of armed guards at each of its mines and the miners complained that these armed guards come over to the camps daily and endeavor to pick quarrels with the strikers and treat their women in a disrespectful manner. Your committee was informed that two days before its arrival, these guards disappeared.[35]

The strike was more bitterly fought in the bituminous than in the anthracite region. Uniontown was one of the chief centers of the strike.[36] In and around this section occurred dynamiting,

[33] *New York Times,* Feb. 15, 1923, p. 1.

[34] These mines were supplying coal for the Interborough Rapid Transit.

[35] *New York Times,* Jan. 2, 1923, pp. 1, 6; cf. also Blankenhorn, H., *The Strike for Union,* N. Y.: H. W. Wilson Co., 1924, p. 192.

[36] Uniontown and the surrounding coal regions were reported to be under the control of the National Guard as this volume goes to press. Governor Pinchot despatched the National Guard late in July 1933 because of strike conditions which resulted in riotings that threatened to culminate in a conflict similar to 1922.

murder, looting, shooting, bombing, incendiarism, and derailing of trains. There was complete violation of practically every tenet of decency, decorum, and justice by miners, deputies, coal and iron police, State police, operators, and the National Guard. Wholesale evictions of miners on strike from company houses were made in Fayette County. Six hundred eviction notices were issued by the prothonotary between Monday and Thursday, and indications were "that 3,500 would be reached by the end of the week." Deputy sheriffs of the H. C. Frick Coke Company were the evicting officers for that company, allowing the miners ten days in which to go back to work or get out.[37]

The anthracite strike ended September 9, 1922, and the bituminous strike ended August 29, 1922. Despite the fact that all the State's power in the form of State police, coal and iron police, deputy sheriffs, and the National Guard were thrown into the conflict to prevent rioting and destruction and preserve the rights of all involved, the strike was productive of the most savage disorder and barbaric and inhuman brutality. A characteristic story of the strike is told by John Guyer, who was a member of Governor Pinchot's Citizen's Committee in 1922, in his volume *Pennsylvania's Cossacks:*

> . . . a truck load of strikers was passing through Footdale. Some of the men were singing and calling out to each other and to friends. Suddenly the truck was halted by armed guards rushing in front of it in a machine. Before any questions were asked another car raced up and about nine deputies and coal and iron policemen began tussling with the occupants, seeking to pull them off the truck.
>
> They clubbed them with sticks and blackjacks and also used their fists. Five of the miners were beaten and then jailed. The policemen said that the miners on the truck had called some men who were working "scabs." (The two "scabs" brought into court later by the coal company swore that they did NOT hear anyone call any offensive names).
>
> The arrested miners were first taken to the office of the Warriner & Fuller Coal Company. The blackjack was used on John Merchack, 18 years, and Joe Feintosh, 16 years, was beaten so his eyes were blackened, both at one time. George Lengal was also beaten, while John Petro, a one-legged miner, was both arrested and beaten. After sweating them and abusing them in the coal company's office the guards took the five men to Uniontown jail. A man by the name of Mason was in charge of the squad of deputies and police according to witnesses, who related the story. The case was nol-prossed.[38]

In this particular strike, destruction of the union appears to have been the sole motive of the operators. This attempt to

[37] *New York Times*, Sept. 9, 1922, p. 2. [38] P. 28.

force out the union was particularly accentuated in the Connellsville coke region, which comprises practically all of Fayette, Greene, and Westmoreland, and part of Washington Counties, and is the location of the H. C. Frick Coke Company, Rainey, and other companies. To accomplish this desirable aim, State troopers and heavily armed deputy sheriffs patrolled the strike zone. In a dispatch from Brownsville, Pennsylvania, dated April 6, the *New York Times* printed the following:

> Private guards armed with rifles and shotguns stand guard over the mines that are operating. Mining villages under the control of the coal operators have also been placed under armed guards, and all suspicious looking persons who might be union organizers are being turned away.[39]

Certainly the conditions in West Virginia under the rule of the Baldwin-Felts deputies could not have been much worse. The following excerpts are drawn from an account written by a competent observer:

> Somerset produced George F. Baer, president of the Reading, who in the great strike of 1902 assured the country that "the rights and interests of the laboring man will be protected and cared for, not by labor agitators, but by the Christian men to whom God has given the control of the property interests of the country." . . . His gospel is the creed of Somerset coal operators today.
>
> They practice it through the following equipment: three hundred and forty-eight deputies, enrolled by Sheriff Griffith at $1 per day per head, commanded and paid by the coal companies; coal and iron policemen, enrolled by the state, paid by the companies to whom assigned; State troopers, not numerous but much feared, some taking orders from the irresponsible Bentley, others refusing to break up meetings; "spotters," in chairs in pool rooms, at telephone switchboards or crouched under the windows or racing the roads in motors; they had such handymen as an occasional priest to preach that strike meant damnation. As properties for the Somerset scene they had no-trespass notices on poles, fences and trees; burgesses' warnings on walls in towns; sheriff's proclamations all over the county. There was a lack of good lockups; "arrested" organizers and miners had to be taken to the county jail in Somerset town. . . .
>
> The mine guards' activities flowered at midnight of Monday, May 1, thus: ten coal and iron police employed by the Berwind-White company entered, without warrant, the home of a striker, John Rykala, at Windber to "search for moonshine whisky"; they produced some liquor, threatened Rykala with "four years in prison unless you go back to work by Thursday"; and one of the guards raped Mrs. Rykala. . . .
>
> For several days the authorities did nothing. An attorney, F. P. Martin, of Johnstown, tried to force action. Chief McMullen of the Windber police and Captain Lynch of the Berwind guards denied that any such

[39] *New York Times*, April 7, 1922, p. 1.

thing had happened. "The Sheriff investigated," Lynch told Martin, "and found there is absolutely no truth to the matter. My men are all high class men." . . . At last a line-up of guards was forced. Mr. Rykala identified the ten invaders and Mrs. Rykala picked out one as her assailant, "identifying him by his voice." . . . (Five months later the guard was tried and acquitted on the imperfect identification.) . . .

Arthur Garfield Hays of New York, as attorney representing the American Civil Liberties Union jointly with Samuel Untermyer, on May 27, drove to Vintondale, "to see if the printed stories of hard-riding cavalry there were correct." He was accompanied by J. J. Kintner, the union's attorney, two lawyers from Philadelphia and several newspapermen. They were set upon by five mounted coal and iron police, brandishing weapons and riding their horses so as to make the visitors jump to save their toes. "Get out of town, —— —— —— you. Bust up or we'll bust you up," were their war cries. First one of the newspapermen, then Mr. Hays—who is a cripple—were thrown into automobiles; Mr. Hays's warnings stopped the violence, if not the profanity, and the guards yelled in triumph as the visitors left.[40]

Another sidelight upon conditions in Somerset County is found in the following quotation:

. . . In a strike there are always some people who need help almost right away. As work had been very slack the preceding year I realized that we would soon have people to feed. The men's spirits were high. The password, "No work tomorrow," was decided upon.

A few days after this I got my eviction notice. That evening Jimmy Patrick was telling me not to get downhearted, and I again remarked that it was strange he had not even got an injunction yet. He answered that he expected to get all his soon—meaning eviction, injunction and orders to leave town. And he added: "I will at least have a day longer than you."

Just as he said that, the Company coal and iron policeman appeared. He pulled some papers out of his pocket, and he handed Jimmy the injunction, eviction notice and another notice to collect his belongings and leave town immediately. So he had to leave town the same date as myself.

Another two got the same notices that evening. We found places to go, and had a bunch of strikers to help move us. Eviction notices were being served pretty freely about this time.

Every one moved without a murmur of complaint. The women were great. They encouraged their husbands in every way. Some moved into tents, others to stables, shacks, chicken coops and almost any place where shelter could be had. Of course, in town there were only Company owned houses. . . .

Gunmen were still kept employed, but one noticed that the Company had come to believe that the men were really in earnest. They did not know really who was to blame. Families, just the same, were evicted.

[40] Blankenhorn, *op. cit.*, pp. 29, 118–120, 126.

Miners were arrested and put in jail on paltry charges. Every pressure was brought to bear in an effort to break the strike.[41]

Company towns

We may for a moment turn to the so-called "company town," which, though geographically within Pennsylvania, does not apparently come under this State's legal jurisdiction during strikes. Without comment, two excerpts from the *Report of the United States Coal Commission* and one from Winthrop D. Lane's *Denial of Civil Liberties in the Coal Fields* are reproduced:

. . . The small, isolated mining community, located on the company property, unincorporated, company-controlled, and not easily accessible by trolleys, such as is found in the bituminous fields, is exceptional in the anthracite field. Although 98 company-controlled communities were reported, less than 15,000 mine workers were living in these communities; and less than 7,000 of these were living in communities that are as much as 2 miles from an incorporated town of a population of 2,500 or more. . . . Comparatively few of the mine workers live in company-owned houses; the greater number are free to go from one mine to another to work without affecting the tenure of their domicile. . . . Less than 10 per cent of the total of all anthracite mine workers are thus shown to be living in company-owned dwellings. . . . Over 22,500 of the foreign born cannot read any language, so that safety notices or instructions would be meaningless to them; and nearly 10,000 of them cannot speak English and would have difficulty in understanding their foremen unless these spoke their particular language. These figures suggest that there has been remissness somewhere in the matter of teaching these foreign-born mine workers the language of the country, just as there appears also a lack of energy on the part of the organizations that might properly be expected to stimulate their interest in acquiring American citizenship. . . .

Thus the position of the miners in company-owned houses is anomalous. They are not tenants and have no more rights than a domestic servant who occupies a room in the household of the employer. The documents which pass for leases often give the company complete control over the social life of the families who live in the houses owned by the company. One which has been called to the commission's attention from Fayette County, Pa., actually stipulates that the lessee "hereby further agrees not to use, allow, suffer, or permit the use of said premises, or the private ways or roads through and over other lands of the lessor used to reach said premises from the public road, for any purpose other than going in to said premises from the public road, and out from the same to said public road, by himself and the members of his family; and, further, to do no act or thing, nor suffer or cause the same to be done, whereby the public or any person or persons whomsoever may be invited or allowed to go or trespass upon said premises, or upon said private ways or roads, or upon

[41] Armstrong, Albert, "Why We Struck in Somerset.—II. The Struggle," *Labor Age*, 12: 19–20, Jan. 1923.

other grounds of the lessor, except physicians attending the lessee and his family; teamsters or draymen moving lessee and his family belongings into said premises or away from the same; and undertakers with hearse, carriages and drivers, and friends, in case of death of the lessee or any member of his family." [42]

. . . These towns are not the independent, many-sided communities that most small towns are. They exist for the coal mines. They are the adjuncts and necessary accompaniments of an industry. In them everything is owned by the company that is extracting the coal. They stand on company land; they were built by the company; the store, the movie theater, the amusement hall, the little bank if there is one, the café, the ice cream parlor—all are run by the company. The school is often a company-built project, and so is the church; sometimes the company supplements the salary of the teacher and helps to maintain the minister. Roads leading through the town are private property. Not infrequently the post office is a corner of the company store and the man who sells crackers and meat is the postmaster. These towns are not incorporated. The company is responsible for whatever exists in the nature of a public utility —the supply of water, the lighting, the sanitation and so forth. All this is a situation that has grown up historically. Soft coal is mined in what were once parts of a wilderness, and when the industry entered it had to bring the material elements of civilization along with it.[43]

As long as such towns continue to exist—and they still exist—it is inconceivable that any other system of police protection can be devised. Their continued existence is a challenge to Pennsylvania's legislators and an eloquent testimonial to public apathy and the bankruptcy of social responsibility, but it is also a glowing tribute to a defunct economic and political philosophy.

It is readily evident that these villages present problems of health, education, security, and preservation of order. It is equally evident that taxpayers will resist diversion of appropriations for their special policing. The only solution is the abolition of the closed town, and its incorporation with responsible public officials, either local or county.

Peoples of varying and often antagonistic national and cultural backgrounds living in such close proximity as obtains in the company town demand the highest and most adaptable intelligence of its police. Further, knowledge of the majority language, without membership in that language group, is a necessity. Training in comparative ethnology and social psychology is more important

[42] *Report of the United States Coal Commission Transmitted Pursuant to the Act Approved September 22, 1922*, Part I, pp. 9–11, 169–170.

[43] Lane, Winthrop D., *The Denial of Civil Liberties in the Coal Fields*, N. Y.: George H. Doran, 1924, pp. 1–2. See also Hard, Anne, "The Patch," *The Nation*, 121: 592–593, Nov. 25, 1925.

than legal knowledge. If the metropolitan police have signally failed, when provided with at least some of the scientific equipment and training available, it would require a maximum *naïveté* to denounce the coal and iron policeman, whose interests can hardly be said to be an understanding and solution of problems constantly arising. Repression by club and gun appears to him more persuasive.

It is not sufficient to charge the operators with peonage and medieval paternalism. If and when the company town, which is or may be closed to whomever the company decides, is incorporated within a political unit under regularly elected officials, much of the difficulty must vanish. At least the civil authority will have assumed its manifest obligation to men, women, and children who have definite rights to be safeguarded, if the Bill of Rights and the Constitution are to be regarded as more than props for the politically influential.

Organized labor has repeatedly opposed the company town. It is obvious that it is in these company patches that miners, dependent upon mine superintendents, can be most easily alienated from their union upon threat of eviction. It is in such localities that the most brazen abuse of police power is had. Collusion between justices of the peace and police make the foreign miners' position particularly cruel. The following statement is not overdrawn:

> Of all localities in the United States where civil rights are most flagrantly violated and denied, these non-union coal districts easily take first place. In those districts the authority of the employing interests dominates the entire community. The exercise of the ordinary rights of a citizen are subject to the orders of company representatives. A man must obey or get out.[44]

The comment of the United States Coal Commission is also pertinent:

> The commission condemns equally that lax local government which has seemed to render it necessary for the owner of property to police it at his own expense and in the event of strikes to bring in professional strike breakers, who are frequently better gunmen than they are laborers, and the exercise of that right which inherently belongs to an American citizen, namely, that of a stranger voluntarily walking into a community, hiring a hall, and giving that community a lecture on what its rights and duties are. Many good-intentioned people, seeking to serve the common weal, have unwittingly contributed more to crime than to character making.[45]

[44] Lane, Winthrop D., *op. cit.*, Introduction, p. vi.
[45] *Report of the United States Coal Commission,* Part I, p. 180.

Undoubtedly the company town represents a genuine attempt to operate the mines efficiently and, from the operator's point of view, to protect workmen and their families. Speaking of "Civil Liberties in the Soft Coal Fields: The Point of View of the Operators," William C. Chanler writes that the location of the mine determines the site of the town, and that when the mine is exhausted the property or town remains, the miners leave, and the county will not buy it. Only the company can afford to build it and police it:

> . . . so long as railroad corporations find it necessary to have their conductors made special policemen to prevent trouble on railroad trains; so long as banks find it necessary to have special policemen . . . so long as department stores, hotels, and office buildings find it necessary to have armed watchmen, just so long will it be necessary for mining companies to have armed watchmen and special policemen to protect their property. . . .
>
> Of course, the closed town is not perfect; of course it is paternalistic; of course, it violates certain civil liberties; but at least it protects other and more fundamental civil rights. . . . It is to prevent the violence and murder that invariably accompany attempts to force unionization; to preserve to the non-union miners the right to work . . . to preserve the most vital civil liberties guaranteed by the American Constitution; the right to life, liberty, and the pursuit of happiness.[46]

Some of these more "fundamental civil rights" which the company towns apparently do not preserve may be inferred from the following statement of the United States Coal Commission:

> For 19 sample communities of the 116 in which the anthracite miners live, a comparative rating of sanitary conditions has been secured from the United States Public Health Service, together with definite suggestions for improvements, based upon special studies made at the request of the commission. The 19 communities selected for this purpose include one of the two larger cities (Wilkes-Barre), 8 small company-owned settlements with an average population of 530, and 10 towns with population ranging from 1,080 to 28,000. . . .
>
> Good water is available in most of the communities, and credit for it is assigned chiefly to the natural advantages of the district and to the fact that water is essential to the operations of the collieries. If it were not for the relatively high ratings which could be given for this point, the general ratings of sanitary status would be even lower than they are. Except in five or six places, the sewerage ratings are low. Even where sanitary sewers are available, the majority of the houses are not connected. Privies

[46] *The Independent*, 111: 162–163, Oct. 13, 1923. See also Chafee, Z., Jr., "Company Towns in the Soft Coal Fields," *Ibid.*, 111: 102–104, Sept. 15, 1923.

of poor construction, rarely cleaned and more rarely inspected, are the rule.

Except at a few places, very little is done to insure purity in the milk supply, to protect foodstuffs from contamination, or to keep down the number of flies. Heaps of manure within a few feet of dwellings; garbage and other refuse awaiting collection for days in open boxes, barrels, or tubs; swarms of flies and clouds of dust; meat, bread, fruit, and vegetables exposed for sale not only in unscreened groceries but unprotected on hucksters' wagons in the streets; lack of competent supervision of milk, and prevalence of the "one-cow dairy," are conditions which contribute to the low ratings on these points.

Only four of the 19 communities have full-time health officers, and seven have no semblance of organized public health work. Medical inspection of school children is general and in many places there are nurses attached to the mining companies, the Red Cross, the Metropolitan Life Insurance Co., the State department of health, or a local society, but for the most part their efforts are uncorrelated and scattered, and hence less effective than they should be.

These facts should awaken a sense of serious responsibility on the part of public officials and citizens.[47]

The conditions are admittedly better in the anthracite than in the bituminous fields. A trip through Western Pennsylvania and even a casual inspection of company towns will convince any one even mildly interested that there is much truth in the statement made to the writer by the chief of police of one of the largest bituminous coal producers in this State: "These people live like pigs." If such is the case it must be readily evident that, regardless of the type of policeman assigned such towns, sooner or later he will resign or sink to the level of the inhabitants.

Constables in Allegheny County maintained vigorously that these company towns were scenes of the most revolting types of vice, drunkenness, and lawlessness, and that they were completely helpless to eliminate these conditions, since they were forbidden entrance to "private property" by the company police. Armed with warrants and possessing definite evidence of liquor manufacture and sale in these patches, they received the same summary treatment and were ordered away from the gate. If they succeeded in securing permission from the captain of police to enter and apprehend an offender, they soon learned he had been transferred to another mine. After visiting several mines and learning the man named in the warrant had been "transferred" or had "quit," the constables were obliged to admit the futility of attempting to enforce the law.

[47] Part I, pp. 34–35.

The coal and iron police denied these charges categorically, and claimed that the constables and justices of the peace were the purveyors of liquor into company towns and that it was common knowledge that these peace officers were "crooked as corkscrews," and that was the reason they were denied admittance to the towns.

It is probable that the truth lies somewhere between these two extremes. During the bituminous strike in 1928, hundreds of affidavits were produced by the miners' organization setting forth conditions observed by eyewitnesses. An equal number denying that such conditions existed were furnished by the operators. It is obvious that both sides cannot be describing the same conditions and using the same standards. Whatever opinion one may hold with reference to the rightness of "our" cause and claims and the wrongness of "your" cause and claims, the fact remains that these towns are so located and constructed that these conditions *could* exist.[48]

[48] It was estimated by an official of the United Mine Workers of America that there were 170 such towns in the Pittsburgh district in 1931.

CH. VII. THE STRIKE OF 1925–1928

The two largest coal producing companies in the bituminous fields are the Pittsburgh Coal Company and the Pittsburgh Terminal Coal Company. The activities of the police of these two companies were examined by a United States Senate investigating committee in 1928, at the request of the United Mine Workers of America, who demanded a sweeping investigation of conditions in the coal fields of Pennsylvania, West Virginia, and Ohio. The report, published in two volumes, set forth incredible conditions and comprised more than 3,400 pages of documentary evidence and sworn testimony gathered from operators, union officials, police, miners, and citizens. The report is remarkable for the mass of contradictory statements, charges, and countercharges. Hundreds of affidavits were filed by the union miners alleging unspeakably atrocious conduct by coal and iron police and unusually horrible conditions in mining towns. The affidavits were rebutted by the operators denying the truth of such sworn statements.

Basil Manly, joint chairman of the War Labor Board with the late Chief Justice Taft, in a series of articles in the *Pittsburgh Press,* based upon visits to the strike-stricken area, reported conditions very much as set forth by the miners. The present writer visited several mining villages immediately after the strike of 1925–1928, and from interviews with justices of the peace, police, operators, citizens, and union officials, inclined to the view that while the union officials had overdrawn the actual conditions, their description fitted more closely what he saw than did statements by company officials. The truth of specific charges must be accepted with the greatest caution. But, generally speaking, the arguments and recital of "facts" by the union miners were more convincing than the "defense" of the operators.

Whatever the underlying causes for the strike, the immediate factor which precipitated the conflict in the bituminous fields was the failure of the Pittsburgh Coal Company to abide by the provisions of the Jacksonville agreement, which was negotiated and signed by the coal operators and representatives of the United Mine Workers of America in the city of Jacksonville, Florida, in February 1924, to expire March 31, 1927. The bituminous coal operators of Illinois, Indiana, Ohio, and western Pennsylvania

signed this contract, agreeing to maintain the wage scale set up in 1920. In order to prevent the outbreak of a strike in the event of disagreement between operators and the miners' union, the United States Government, through Secretary of Commerce H. C. Hoover and Secretary of Labor J. J. Davis, attempted to bring about a satisfactory arrangement between the two parties. The agreement was duly signed and apparently accepted by both sides.

On August 10, 1925, the Pittsburgh Coal Company, which employed approximately 19,000 coal miners in western Pennsylvania, posted notices at its mines to the effect that from that date the wages of its miners would be reduced 33⅓ per cent. The mines were closed and reopened at the new wage scale. This action, which was regarded by many as a violation of contract, was defended by officials of the Pittsburgh Coal Company by the argument that they had agreed to the wage scale only so long as they operated the mines under union conditions. They insisted that they had not agreed as to how long they would operate the mines under union conditions. From a purely legalistic standpoint this distinction may be valid, but the fact remains that all other signatories, operators and union officials, understood and accepted the agreement as a genuine contract, to continue in force until March 31, 1927.

This act by the Pittsburgh Coal Company led to one of the most disastrous strikes the United Mine Workers has experienced. Refusal by union miners to accept the wage cut led to wholesale evictions from company houses of miners who had been employed by the company for many years. Hundreds of strike breakers were "imported from states south of the Ohio River, namely, Alabama, Kentucky, Tennessee, Virginia, and elsewhere." [1] The Bethlehem Mines Corporation followed the action of the Pittsburgh Coal Company. Efforts to force these companies to carry out the agreement they signed were futile. The union saw in this action an attempt by the coal operators to smash the miners' union, and claimed that the railroads, who were the largest consumers of soft coal, had conspired to force the coal companies to reduce wages as the price for further coal orders. Whatever the truth of these charges, hundreds of coal and iron police were thrown into the bituminous fields "to protect property" and the sacred right to work at reduced wages. The Pittsburgh Terminal Coal Company, although it was claimed that it operated at a loss, lived up to the Jacksonville agreement until it expired on

[1] From a statement by Philip Murray, vice-president of the United Mine Workers of America, at a conference of the American Federation of Labor, Pittsburgh, Nov. 14, 1927.

March 31, 1927, after which date its mines were opened under non-union conditions.

It may be pointed out here that in very few instances has there been any violence in the coal fields except on those occasions when coal companies insisted upon attempting to operate the mines during a suspension. Either indifference toward past experience or defiance of the union organization on the part of the operators has resulted in destruction of property, disregard for human rights, and the generation of suffering and misery, which involves not the strikers and the operators alone, but the public as well.

The present writer, holding no brief for either side, and interested only in trying to discover the truth from among the conflicting reports, must confess that both operators and union officials left the distinct impression that strikes are "private fights," and any one not immediately involved should mind his own business. Since the coal and iron police cannot function as such until the State clothes them with power, and since the State presumably derives its authority to do so from human beings comprising the State, it appears naïve to proclaim that the public has no business to inquire as to the source or the salaries of such men. The salaries are fairly indicative of the type of men employed and the attitude of the company toward defeating the strikers.

Union miners were convinced that the importation of Negroes (it was variously stated that there were 30 to 80 per cent imported) was for the sole purpose of "breaking the hearts of the miners" by showing them that "even niggers" could do their work, and further to humiliate the miners by evicting them so that Negroes might occupy the houses the miners once knew as home. No doubt the coal companies also gave some heed to the fact that Negroes were cheap labor and were unorganized.

Coal and iron police in bituminous fields

With the exception of a few coal and iron police during 1922, there were no such police in the bituminous fields until 1925. The Pittsburgh Coal Company had employed deputy sheriffs, as had practically all other coal companies. However, in 1926 the Pittsburgh Coal Company organized a police department under the direction of Captain John G. Searsh, of the Pennsylvania Railroad police, who was furloughed, or loaned, to the Coal Company for that purpose. As far as it could be learned, Captain Searsh, a very able and scrupulous officer himself, set up an organization and trained a large number of men who were a distinct credit to the Coal Company. Whatever discredit was later to develop certainly did not grow out of the work of Captain Searsh. In-

asmuch as the union officials charged the Pennsylvania Railroad with conspiracy to reduce wages, and since the presence of Captain Searsh was buttressing evidence of such conspiracy, the following letters are reproduced:

January 25, 1926.

Dear Mr. Atterbury:

For some time past we have been seriously considering the formation of our own police force to take charge of policing our property. With this in view we recently had a conversation with Major Adams of the State constabulary, who recommended Capt. J. G. Searsh, located at Harrisburg, in charge of that division of your police organization. Our representative called on Captain Searsh, and he is willing to help us organize our force provided it meets with your approval and if you will grant him nine months' leave of absence. If you can see your way clear to do this, it will be greatly appreciated by this company. We believe he will be able and capable of securing for us a protection which will help us to operate our mines.

Sincerely yours,

[Signed by William G. Warden, of the Pittsburgh Coal Company] [2]

January 27, 1926.

MR. W. G. WARDEN,

Chairman Pittsburgh Coal Co., Pittsburgh, Pa.

My Dear Mr. Warden: Replying to your letter of January 25 in regard to your company's securing the services of Capt. J. G. Searsh, in charge of our police department at Harrisburg, to help you organize your proposed police force, we will be very glad to coöperate with you in this matter, and if Captain Searsh will take up with Mr. H. H. Garrigues, our general superintendent at Harrisburg, the question of leave of absence, it will be satisfactorily arranged.

Yours very truly,

W. W. ATTERBURY, *President* [3]

[January 30, 1926.]

Dear Mr. Atterbury: Yours of the 27th instant received today on my return to the office. We certainly appreciate your kindness in giving Captain Searsh a leave of absence, for it is believed that he can be of great service to us.

[Signed by William G. Warden, of the Pittsburgh Coal Company] [4]

Captain Searsh incorporated much of the discipline and control employed by him over the railroad police and gave close at-

[2] *Conditions in the Coal Fields of Pennsylvania, West Virginia, and Ohio*, Senate Hearings, vol. 1, pp. 1280–1281. [3] *Ibid.*, p. 1281. [4] *Ibid.*

tention to the selection of officers. Some training in police procedure, criminal law, and the use of firearms was undertaken. Captain Searsh, who had intended to remain permanently with the Pittsburgh Coal Company if conditions were satisfactory, received $4,500 per year salary, but at the end of five months he resigned and returned to the Pennsylvania Railroad. When he left the Coal Company, 90 coal and iron police had been organized into an efficient police department, and from evidence presented before the Senate investigating committee one may readily infer that during his tenure as chief of police very few complaints were made by miners or citizens. Later in the strike, however, warfare between police and miners blazed forth.[5] The force of 90 police in 1926 increased to 260 by November 11, 1927, when the strike was at its peak, and declined to 106 by March 1, 1928. On July 9, 1930, the Pittsburgh Coal Company had "about 20 men" in its police department.[6]

As mentioned earlier, the Pittsburgh Terminal Coal Company did not abrogate its contract with the United Mine Workers. However, when the agreement expired on March 31, 1927, this company also closed its mines and reopened them at a reduced wage scale.

Prior to this date the Pittsburgh Terminal Coal Company employed no commissioned coal and iron police. On January 18, 1927, no commissions had been issued to this company; but on November 12, 1927, there were 156 commissions listed for this company in the Bureau of Commissions in Harrisburg. On March 1, 1928, there were 82 commissions listed. At the present writing, only deputy sheriffs can be employed. Wide discrepancies between the number of commissions issued and the number of police employed existed for both the Pittsburgh Coal Company and the Pittsburgh Terminal Coal Company during the strike, the only explanation of which was that blank commissions were issued to be used later, or fictitious names were furnished the Governor's office.[7] It was a practice of the Pittsburgh Terminal Coal Company in hiring the police to require the policeman to sign his resignation the same day. When he was no longer needed, or for any cause whatever he was dismissed, the company merely accepted the resignation.

Coal and iron police in the bituminous fields alone totaled

[5] *Conditions in the Coal Fields of Pennsylvania, West Virginia, and Ohio,* Senate Hearings, vol. 2, pp. 2887–2906.

[6] Letter to the writer from Dr. L. E. Young, vice-president.

[7] *Conditions in the Coal Fields of Pennsylvania, West Virginia, and Ohio,* vol. 1, pp. 1063–1066.

2,115 on January 18, 1927; 3,002 on November 12, 1927; and 2,474 on March 1, 1928. The eleven largest employers of coal and iron police on the same dates, as listed in the public record of Harrisburg, were:[8]

	Jan. 18, 1927	Nov. 12, 1927	March 1, 1928
Ellsworth Collieries	78	88	64
H. C. Frick Coke Company	200	205	132
Hudson Coal Company	204	209	215
Jeddo-Highland Coal Company	111	110	110
National Mining Company	17	116	53
Pittsburgh Coal Company	75	260	106
Pittsburgh Terminal Coal Company	0	156	82
Vesta Coal Company	9	94	51
Bethlehem Steel Company	124	184	172
Carnegie Steel Company	529	500	475
Westinghouse Electric and Manufacturing Company	77	96	92
Total	1,424	2,018	1,552

On April 30, 1931, there were 69 companies employing Industrial Police. During the previous two years the maximum number of companies was 74. The total number of Industrial Police commissions that had been issued following the creation of the Bureau of Industrial Police was 1,336. On April 30, 1931, there were 1,050 commissions in effect.[9]

Coal and iron police, railroad police, water company police, electric company police, and so forth, and those engaged for the protection of fish, the prevention of cruelty to children, and charitable associations were reported to have had the following totals on the dates given: January 18, 1927, 3,052; November 12, 1927, 3,921; March 1, 1928, 3,377.[10]

Obviously, not all these police were involved in the bituminous strike; but it may be observed that there were notable increases in all but three of the companies listed, while the bituminous coal and iron police increased in number over 40 per cent from

[8] This list does not include other types of private police, nor does it include a large number of other coal companies.

[9] Letter to writer from Captain George F. Lumb, Secretary of Industrial Police.

[10] The figures have been taken from a report prepared for Governor John S. Fisher in 1928. "Other" State commissioned private police are excluded.

January 1927 to November 1927. This increase clearly indicates the conditions which developed during the summer and early fall of 1927. If these police had been paid only $150 per month, which is much below the wages actually paid, the monthly pay roll for the bituminous operators listed would have exceeded $450,000, entirely apart from cost of maintenance, which the mine owners had to bear.

Inferentially, the methods of selecting police for strike duty have been set forth. The companies faced with the necessity of recruiting a private army in the shortest space of time (although many had started prior to the actual strike, or "lockout" as the unions called it) were forced to employ individuals who were recommended by other police in their employ or by persons known to the company officials. The operators maintained that every precaution was utilized to secure competent police, but freely admitted that many were hired if "they looked all right." Undoubtedly many of the police engaged were incompetent and worthless. It is safe to say that a great many possessed practically no knowledge of police work or of mining, both of which are essential in such work.

While the union maintained that only a person of low moral character would take the job of coal and iron policeman, this assertion cannot be seriously believed. There were well-trained police employed, but even as in other police organizations, there was a large number whose sole qualifications appear to have been brute strength and physical endurance. Conditions under which such police lived did not and do not now conduce to the development of a genuine system of desirable police work. Many were sent into company towns armed with revolvers, but lacking knowledge of how and when to use them. Shooting into crowds and schoolhouses and driving in trucks through mining communities endangering the lives of residents, were among the charges brought against these police, and such denials as were presented carried little conviction.

Hatred of the coal and iron police was evident long before any State-commissioned police were employed in the bituminous fields. When they finally appeared, clothed with the supreme authority of the State, this hatred was given objective expression by the union miners. The police were regarded as hirelings of the enemy and their sole reason for existence was thought to be the destruction of the union. The Pennsylvania State Constabulary, regarded by many critics of police organizations in the United States as a model police department, came into existence in 1905 for the purpose of replacing the coal and iron police. The State police

were and are now just as bitterly hated by union labor as the mining company's police.

During the strike under consideration, the union miners did not hesitate to provoke attacks from the private police. Strike breakers were viewed by the striking union miners as qualified largely to serve as targets or examples. Protection of the strike breakers was a legitimate part of the coal and iron policeman's job. Regardless of the ethics of strike breaking, the fact of importance when discussing the rôle of the private police and labor disturbance, is that police must by the nature of their work provide protection for anyone in danger, whether union or non-union. Even though the whole system of State-commissioned private police be indefensible, the fact remains that such police must carry out their obligations or seek a living in some other field of labor.

During the bituminous strike the evils of the company town were brought out more forcefully, perhaps, than ever before. Miners who were imported from other states were actually peons. "Clacker" money or scrip was issued, and according to reliable testimony of store owners and residents, Negro miners received exactly nothing on pay day, since the company store had already more charges against the miners than they could possibly pay. Rent and other incidental expenditures rendered the non-union miner even less free than a medieval serf. The writer cannot demonstrate the truth of these statements, but applying the best canons of criticism and comparison to the stories told by persons in no way connected with either side, his own conclusion is that there was more truth than falsity in the charges. It was an accepted fact and freely admitted by the coal companies that coal and iron police were stationed at the entrance to the mining property and no miner was allowed to leave, even to go to Pittsburgh for a visit. The companies declared that the purpose was to keep out the more unruly and intrepid members of the union. The company town also effectively excluded local police, as the following affidavits indicate:

STATE OF PENNSYLVANIA,

County of Allegheny, ss:

Personally appeared before me, P. J. Burke, a justice of the peace, in and for the said State and county, one Frank Kossan, a deputy constable of Snowden Township, Allegheny County, and duly authorized to serve warrants, who upon oath deposes and says that on or about the 3d day of November, 1927, there was issued to him for service through the office of P. J. Burke, a justice of the peace, a warrant for the arrest of one Joseph Pasko, a coal miner at Mine No. 8, of the Pittsburgh Terminal Coal Corporation, at Coverdale, Pa. That when he, Frank Kossan, arrived at the

said mine and showed his authority to the captain of the coal and iron police, one Captain Woye, he was ordered to leave the premises. I refused to leave and demanded a permit or assistance in securing the prisoner mentioned in the warrant. Captain Woye stated: "If you go in this camp, I'll have you arrested." However, I went into the camp and Corporal Sheinor of the coal and iron police followed me and placed me under arrest and took me before Squire Edmondson, at Mount Lebanon, Pa., a distance of about 12 miles, where I was arraigned for trespassing. After forfeit of $25, I returned to the same office of the coal and iron police and demanded a permit but was arrested again in the office by Private Watson and released by Captain Woye. Later the case was brought to trial and the prosecutors paid the cost. FRANK KOSSAN.

Subscribed and sworn to this 23d of February, 1928.

[SEAL] P. J. BURKE, *Justice of the Peace.*

My commission expires first Monday in January, 1932.[11]

STATE OF PENNSYLVANIA,

County of Allegheny, ss:

Personally appeared before me, J. M. O'Rourke, a justice of the peace, in and for the said State and county, one Frank Kossan, a deputy constable of Snowden Township, Allegheny County, Pa., and duly authorized to serve warrants, who upon oath deposes and says that on or about May 22, 1927, there was issued to him for service through the office of J. M. O'Rourke, a justice of the peace, a warrant for the arrest of one E. F. Parker, a coal and iron police officer stationed at Mine No. 8, of the Pittsburgh Terminal Coal Corporation, at Cloverdale, Pa. That when he, Frank Kossan, arrived at the said mine and showed his authority to the captain of the said coal and iron police, one Capt. John Manny, he was ordered to leave the premises and advised that the party mentioned in the warrant was not on the premises; that he had been granted a furlough. I refused to leave, and demanded a permit or assistance in securing the prisoner, or the arrest of the man mentioned in the warrant. Captain Manny stated, "If you go in this camp, you'll never come out." However I went into the camp and learned that the said E. F. Parker had been seen riding a horse just prior to my arrival, but after a thorough search of the town I was unable to locate him. Upon leaving the town, at the entrance thereto, six coal and iron police, including Manny, stood across the highway with riot guns, drawn and leveled and demanded my surrender, which was complied with, and I was placed under arrest and taken before Squire Edmondson, at Mount Lebanon, Pa., a distance of about 12 miles, where I was arraigned for trespassing. Later the case was brought to trial and the prosecutors paid the costs.

FRANK KOSSAN.

Subscribed and sworn to this 24th day of February, 1928.

[SEAL] J. M. O'ROURKE, *Justice of the Peace.*

My commission expires January 4, 1932.[12]

[11] *Conditions in the Coal Fields of Pennsylvania, West Virginia, and Ohio,* vol. 2, p. 3201.

[12] *Ibid.,* pp. 3201–3202.

J. M. O'Rourke, the justice of the peace in Broughton, Pennsylvania, told the writer that he himself had been prevented from entering the mining properties in that village. O'Rourke, on the other hand, was accused by the coal and iron police of complete sympathy and prejudice in favor of the union miners. He was formerly an employee of the Pittsburgh Terminal Coal Company. The coal and iron police captain, E. R. Sourbeer, in charge of the Pittsburgh Coal Company police at their headquarters in Library, himself a former member of the Pennsylvania State Highway Patrol, frankly discussed the problems which he found peculiarly difficult. His general conclusion revolved around the relation of company police to the local public police. He maintained with considerable evidence of accuracy that the local justices of the peace and local constables had convinced themselves that the coal and iron police were not to be regarded as police in any sense. The local constables refused to coöperate with the company police, and justices of the peace were extremely reluctant to convict offenders brought before them by coal and iron police.

Conversation with the local officials confirmed the statements of Captain Sourbeer. Local constables and justices of the peace not only gave every evidence of complete sympathy for the striking miners, but gave no indication that they understood that their offices were legally neutral. The epithets employed to describe the company police were eloquent of their interest in impartial justice. Their opinion on the strike breakers was also illuminating. The "nigger scabs" in reality had no legal rights, according to these local officials.

On fences, walls, and poles one might read silent reminders of the conflict, such as:

> Red neck [union man] don't you cry
> You'll scab before you die.

Children and women joined in the denunciation of coal and iron police in and around Castle Shannon and Broughton. The amazing point in connection with the charges of brutality by coal and iron police is that there were not more, when the provocation is carefully considered. In this writer's mind, there is no doubt that much of the slugging, beating, wounding, and brutal treatment of miners and their families was the result of actions by the strikers, which, if not directly instigated by union officials, were not effectively controlled by them. The history of labor troubles is clear evidence that the coal operators were not uniquely responsible for the barbarism of the bituminous strike. As the operators stated, "This strike is war"; and no war in history

can be analyzed so as to show that the army of the enemy was the only group that indulged in techniques of terror, slaughter, and destruction.

Conditions in company towns

While the strike was in progress the union miners proclaimed that unspeakable conditions were to be found in company towns. The following are fair samples of the types of conditions alleged to have existed:

COMMONWEALTH OF PENNSYLVANIA,
County of Washington, ss:

Before me the subscriber, one of the justices of the peace, in and for said county, personally came Robert Reid, who, being duly sworn according to law deposes and says: That he is 28 years of age, and now resides at Cecil, Washington County, Pa. That about December 15, 1926, he went to work at Montour Mine No. 1, of the Pittsburgh Coal Co., said mine being operated on a non-union basis. That he left his employment at said mine, on or about January 13, 1927. That he returned to work at said mine on or about April, 1927, and again ceased his employment December 10, 1927. That during the period he was employed at said mine No. 1, he was domiciled with his common-law wife at house No. 345, the patch being commonly known to those living thereat as "Mexico."

That the condition obtaining at said mine showed that the people employed there were given to all manner of vices, selling and dispensing of liquor, with the knowledge and consent of the authorities at said mine, gambling being practiced at a large number of houses, prostitution generally prevailed among the Negro miners and the presence of venereal and kindred diseases making it bad for the health of the community.

That at the following houses miners lived with women not their wives: House 355 occupied by Riley Wrens and his woman; house 332 by George Duffy and a woman; house 349 by Fred Thomas and a woman. Others living with women not their wives were Charlie Downs, Mr. Broxton, Will Spencer, and one nicknamed "Red" in house No. 50. That the men living in houses Nos. 74, 63, and 64, at said mine were living immoral lives with women of shady character. In house No. 320, at said mine was a notorious place of prostitution and bootlegging, and was operated by one Pearl Anderson. That house No. 336, a place of low character, was operated as a dance hall by one Julions. That one Charlie Downs operated a house of ill fame and dispensed of bootleg liquor in his house at Mexico. That the following houses were places where liquor was sold and dispensed of freely: House Nos. 82, 315, 322, 324, 328, 332, 349, 354, and 358. That absolutely no effort was ever made by the mine officials and the coal and iron police stationed at said mine to restrain or prosecute the very common violations of law. That in one instance where a non-union miner had gone over to join the union, he was prosecuted for violating the liquor laws but that the contraband liquor was disposed of in some manner by the coal and iron police and never offered in evidence.

That while he, deponent, was at said Montour Mine No. 1, approximately 120 non-union miners stopped work and affiliated themselves with the United Mine Workers of America. Twenty-six of these men were arrested, charged with no other offenses than that having joined the union. That of the 26 men arrested 4 were charged with carrying concealed deadly weapons and were held to answer before the court of Washington County, Pa. The other 22 were kept confined in jail for about 24 hours and then discharged.

That at the hearing accorded the 26 men it was openly testified by the coal and iron police that the men were being arrested for joining the union.

That as long as the Negro miners worked at said mine under the open-shop condition they were permitted to carry concealed weapons upon their person, in and about their homes, revolvers, handy-billys, blackjacks, and other offensive weapons. The coal and iron police permitted all this [and] made no effort to restrain the men.

That the Pittsburgh Coal Co. announced that they were operating this mine under the American plan, which is the open-shop plan, but summarily discharged the 120 miners who chose to join the Union. This incident of their discharge was between the 1st and 10th of December, 1927.

ROBERT REID.

Sworn to and subscribed before me this 26th day of January, 1928.

T. M. REESE, *Justice of the Peace.*

My commission expires first Monday in January, 1934.[13]

STATE OF PENNSYLVANIA,

County of Allegheny, ss:

Before me, a notary public, in and for said county and State, personally appeared Nicholas Brennan, Jr., who being duly sworn according to law, deposes and says that he is a resident of the city of McKeesport, 919 Rebecca Street of said city, in the county of Allegheny, State of Pennsylvania.

That from March 22, 1926, to June 27, 1926, he was employed as a coal and iron policeman by the Pittsburgh Coal Co., duly commissioned by the Governor of Pennsylvania; that during this time he was stationed at the following places: Library, Imperial, Moon Run, being in Allegheny County; Van Meter and Smithdale in Westmoreland County; and at Whitsett Junction in Fayette County.

That while stationed at Imperial he observed many of the non-union colored miners carrying .45 caliber revolvers, and the sale of moonshine in the camps was openly carried on and prostitution practiced; that there were a number of houses in the camp in which moonshine was sold, but I was ordered by my superior officer, Sergeant Green, not to bother same.

That while stationed at Whitsett Junction he observed the sale of moonshine, the running of houses of prostitution, and the bringing of

[13] *Conditions in the Coal Fields of Pennsylvania, West Virginia, and Ohio,* vol. 2, pp. 3160–3161.

women from other States into the camp; that while stationed at this place he had occasion to arrest a certain Negro strike breaker for discharging firearms on the public highway; that he was taken to the office of Squire Armstrong, at Star Junction, and the case was nolle prossed and the gun was returned to him on orders of Superintendent Bowman.

That while in the employ of the company I noticed a number of violations of the law, immorality, and the sale and manufacture of moonshine liquor in the camps, but was unable to make any arrests on account of the orders of my superior officers, not to bother the men in the camps for minor violations of the law.

NICHOLAS BRENNAN, JR.

Sworn to and subscribed before me this 16th day of March, 1928.
[SEAL] JANE M. HECKATHORN, *Notary Public.*
My commission expires March 2, 1929.[14]

The following quotation was signed by the late Senator Frank R. Gooding, of Idaho, who was chairman of the Senate investigating committee, and by Senators W. B. Pine, Jesse H. Metcalf, Burton K. Wheeler, and Robert F. Wagner:

Around most of the coal company's property, your committee found the property was inclosed with a high board fence something like 12 feet high.

The next property visited by your committee was terminal mine No. 3 of the Pittsburgh Terminal Coal Corporation. This mine was also near Castle Shannon. Immediately upon arriving at the office of terminal mine No. 3 of the Pittsburgh Coal Corporation your committee called upon the superintendent of this mine, Mr. J. M. Provost.

Mr. Provost advised the committee that the Pittsburgh Terminal Coal Corporation was operating six mines at that point and employing something like 2,200 men; that before the strike they had employed 3,200 men and at that time were mining from 14,000 to 15,000 tons of coal daily, but at the present time the production was only about 9,000 tons daily. The committee was advised by Mr. Provost that at the present time he had under his employ something like 60 coal and iron police. These coal and iron police, the committee understands, are appointed by the governor on the recommendation of the coal companies and are carried on the coal companies' pay rolls at from $150 to $200 a month and expenses. . . .

The committee then visited the home of Clarissa Englert at the union barracks near Horning No. 4 mine. Mrs. Englert told the story of the iron and coal police shooting into a group of school children in which two of her children were coming home from school. The brutality of the coal and iron police shocked every member of the committee. . . .

Your committee left Pricedale fully impressed with the fact that the morals there were in a very demoralized condition—that the men and women were running wild and that no effort was being made by the authorities to curb these immoral conditions. In fact, the committee found

[14] *Conditions in the Coal Fields of Pennsylvania, West Virginia, and Ohio,* vol. 2, p. 3210.

generally that no effort was made to invoke law and order or to maintain police protection except through the iron and coal police and they were found to be the outstanding ones who showed little regard for law and order or for the improvement of morals. The committee found generally that the operators themselves paid little if any attention to the morals of the community and made no effort to improve them. . . .

Mr. Baker advised the committee that he had exercised great care in the selection of the men employed as coal and iron police. Mr. Baker said the men employed as coal and iron police would not be expected to have the discretion of executives or general officers and that perhaps at times they had done things he would not advise them to do or want them to do, nor approve of. He said, however, this was only in isolated cases. . . .

One of the most serious conditions that the committee found was the interference of the iron and coal police at post offices located at coal mines on the company's property, usually in connection with its office and store. . . .

Everywhere your committee made an investigation in the Pittsburgh district we found coal and iron police and deputy sheriffs visible in great numbers. In the Pittsburgh district your committee understands there are employed at the present time betweeen 500 and 600 coal and iron police and deputy sheriffs. They are all very large men; most of them weighing from 200 to 250 pounds. They all are heavily armed and carry clubs usually designated as a "blackjack."

Everywhere your committee visited they found victims of the coal and iron police who had been beaten up and were still carrying scars on their faces and heads from the rough treatment they had received. Your committee found more or less evidence of bootlegging in the places it visited; and in one community especially it seemed as if the morals of that community had been broken down entirely.[15]

The following statement by Senator Wheeler of Montana, a member of the investigating committee, to Charles M. Schwab, chairman of the Bethlehem Steel Company, is illuminating:

I want to say to you, Mr. Schwab, that I was in China this last year, and I thought I had seen the worst kind of degradation and misery that I had ever witnessed, but I have never seen it equaled in any place in the world unless it was up here in some of these hovels where we saw women and children, 10 and 12 of them, huddled into a little miserable shack.[16]

Company's defense of coal and iron police

The company's justification and defense of the coal and iron police may be seen in the testimony of Horace F. Baker, president of the Pittsburgh Terminal Coal Company, before the committee:

The bitterest complaint of the union has been that coal companies employ coal and iron policemen about their properties. On the other

[15] *Conditions in the Coal Fields of Pennsylvania, West Virginia, and Ohio,* vol. 1, pp. 345–364, *passim.* [16] *Ibid.,* p. 1321.

hand, it may be said that the greatest single item of expense which this coal company has had to bear to protect itself against members of the United Mine Workers of America is the expense of maintaining these same police. Such police in the employ of this company have cost it $200,000, in round figures, since April 1, 1927. It is believed that the expenses incurred by this company in this connection are typical of all companies operating mines at this time in and about Pittsburgh. And there was absolute necessity for such expenditures, we sincerely believe. It is childish to say that this force was recruited and maintained to make war against the union. Such policemen were engaged and are now maintained only for defense. This company, I can assure you, would be only too happy to discontinue at once all such police, if the union would cease war against the company or the Government provide protection. What is spent and has been spent for police is and has been largely the direct result of hostilities of the union and it will be necessary for the company to continue such police until such hostilities cease. It constitutes in large part an economic waste forced upon the industry. . . .

Since April 1, 1927, our operations have been one continuous story of abuse, violence, sabotage, and disorder of every kind inflicted upon the company and its employees. It is supposed, however, that the story is the same for every major strike conducted by the United Mine Workers of America. Without the protection of its own guards the Pittsburgh Terminal would have been an easy victim, and its properties would have suffered grave and sometimes even irreparable injury. . . . An examination of the motors and mining machinery of this company made immediately after March 31, 1927, and before any new employees were taken into the mines, disclosed that great numbers of the mining machines had been injured and haulage motors put out of commission by acts of sabotage. This must necessarily have been the work of the union since no other persons had operated the machines or up to that time had been in the mines. . . .

Attempts have been made to destroy the mines and machinery of the company by the use of dynamite and by so tampering with the electrical equipment as to make it self-destructive. . . .

This company soon after April 1, 1927, began to recruit a force of police for the protection of its employees and its property. The employment of this action was not only unlawful [*sic!*] but absolutely necessary. Such police is provided for in Pennsylvania by an act of the legislature in force since 1865. (P. L. 225.) This act, from time to time amended, provides for the appointment of police to serve industries and utilities in the State. There is nothing peculiar or unusual surrounding the authority of such police. They are commissioned by the governor of the State, and their commissions must be recorded in the counties in which they exercise their duties. It may be said in passing that such police are provided for by law in many other industrial States, we are informed.

In recruiting its police we desire to state that this company has exercised the greatest care. The history, characters, and general reputations of all applicants have been investigated before such applicants were re-

ceived. It is not humanly possible to recruit a large force of men in a short time without finding an occasional one who will not act under all conditions in the manner expected of an ideal police officer. A few incidents have occurred involving police officers of this company which have shown certain of such officers to be unworthy of the trust reposed in them. In every case the offending officer has been summarily discharged and his commission caused to be revoked. It is submitted that such occurrences have been remarkably few when the trying conditions under which the police of this company worked at all times is fully understood. . . .

The company has maintained as strict a supervision of its police force as is humanly possible. The men intrusted with this supervision have been most carefully selected. During all the months of this strike, with the possible exception of the first few weeks, this company has maintained a police force which will compare favorably in the caliber of its personnel with any municipal or private police force anywhere in the country. Its organization has been patterned after the Pennsylvania State police, and a large number are former members of that organization who have been honorably discharged. All the police employed by this company at the present time have had police experience elsewhere and have been recommended to it for their creditable records in such former employment. The rules governing our police are at least as strict as those of any other like organization and are strictly enforced. . . .

EXHIBIT B

. . . April 12, 1927: On this date the first families of new employees moved into No. 8 mine, with the result that a riot was narrowly averted and serious trouble was prevented only by the excellent handling of the mob by the coal and iron police, who held their tempers under very trying circumstances. The truck bringing in the first furniture was stoned, the people were assaulted, and all the windows of the houses in which these families moved were broken by rocks thrown by former employees who occupied near-by houses owned by the coal company. . . .

June 5, 1927: One William Anderson, giving his residence as O'Fallon, Ill., was arrested and an affidavit was signed by him, which contained the information that he had been hired by representatives of the United Mine Workers of America to report in Pittsburgh to other representatives of the United Mine Workers of America and obtain work at one of the mines of the Pittsburgh Terminal Coal Corporation. He also claims he was instructed to burn one of the bunk houses occupied by non-union men and do other acts of violence. He claims to have been associated with one Albert Harrison, who succeeded in leaving the city before he could be apprehended. The coal company, through a detective agency, endeavored to locate Albert Harrison who had been working at No. 8 mine under the name of Albert Johnson, but were unable to do so. The affidavit of William Anderson was filed in a suit in equity against the United Mine Workers of America in the United States District Court for the Western District of Pennsylvania, on or about the 24th day of August, and when

the United Mine Workers of America filed their affidavits in rebuttal they filed one made by Albert Harrison, who acknowledged that he worked at No. 8 mine under the name of Albert Johnson, and the date of this affidavit was August 27, 1927, or about three days after they were aware that the William Anderson affidavit was in existence. Ben Williams was arrested in connection with this affidavit and he also made an affidavit in rebuttal. . . .

January 28, 1928: C. E. Young was employed as coal loader at No. 4 mine and lives at Bruceton. He arrived at Bruceton on the Baltimore & Ohio train at 9:30 p.m., carrying groceries in each hand. As he moved away from the train six men approached him and one of the men hit him on the forehead, then another man hit him. He dropped his packages and started to run. Then he was hit from behind and knocked into a deep pool of water, which was covered with ice. They threw rocks at him and pushed him with poles, trying to push him under the ice, all the while calling him names. He called for help and part of the men ran away toward the union barracks, and the rest down the railroad. After they left, he crawled up onto the Pittsburgh & West Virginia Railroad tracks, becoming unconscious and was found by a coal and iron policeman who had heard him yell for help. He was then taken to St. Joseph's Hospital, where he was confined for four weeks, having sustained a fractured skull. . . .

Injunction Affidavit No. 2

State of Pennsylvania,

County of Allegheny, ss:

Before me, a notary public in and for Allegheny County, Pa., personally appeared Mathew Blair, who, being first duly sworn, deposes and says:

I am general inspector for the Pittsburgh Terminal Coal Co., and have been such during the past two years. As such it is my duty to supervise the operations of all of the mines of the company, to keep in contact with superintendents of mines and in times of strikes and labor troubles to exact reports as to conditions in the field. . . .

The situation has been rendered extremely difficult because of the presence of the union in and upon our property. It has not been feasible to fence them off since the physical arrangements do not permit. The men have therefore been able to wage warfare against the company while remaining housed on the company's property. The union men thus remaining have used their advantage to the utmost. They have acted as spies within the company's property. They have systematically used their force of numbers whenever possible to intimidate new men and their families and children. The riots referred to above were conducted by such men. The interference with loyal employees was their work. They coöperated with the outside groups, committees and pickets of the union. Any loyal employee, if found without police or other protection, was assaulted and, in several cases, all but murdered. Of this latter class are the cases of Thomas Slater, who was beaten and knocked into unconsciousness and left for dead on the road leading into mine No. 8 about the 5th day of July, 1927. The throwing of deadly missiles, attacks upon

drivers of taxicabs, puncturing of tires, firing from ambush, and rioting to frighten loyal employees were all materially aggravated and furthered by the fact that the attackers were housed upon the company's property.

The cost of policing was materially increased for the same reason. There being no way of segregating hostile tenants from the rest of the grounds, special guards were necessary by day and by night.

The gradual increase of the company's armed officers has tended to repress in part, but not entirely, the interference of these men. This police force costs the company $20,000 monthly. If it were removed the conditions of early April would be immediately resumed. The workmen would fear to come to work, and most of the men would leave the company's employ through fear of being assaulted or murdered. This affiant believes and avers that such fears are fully justified, based upon the policies pursued prior to the development of police protection.

Even with police protection, which at best is only partial, serious interference with the delivery of the company's workers has occurred. Chauffeurs employed by taxicab companies, after a few experiences in trying to deliver workmen at the mines, refuse to obey orders to make further trips.

This was due to fear caused by the act of the strikers and surrounding the taxicabs whenever possible and threatening to assault the driver and/or the employees unless they were turned back. The attacks would take place at points along the public highway not reached by the company's police. . . .

MATTHEW BLAIR.

Sworn to and subscribed before me this 4th day of August, 1927.

[SEAL] JOSEPH H. RITTER, *Notary Public.*

My commission expires at end of next session of Senate.[17]

The Pittsburgh Coal Company, through its President, Mr. J. D. A. Morrow, placed the following in testimony, refuting the union charges:

. . . Senator Gooding is quoted in the newspapers of February 27 as saying:

"Conditions which exist in the strike-torn regions of the Pittsburgh district are a blotch upon American civilization. It is inconceivable that such squalor, suffering, misery, and distress should be tolerated in the heart of one of the richest industrial centers in the world. . . ."

In this language the Senator did not particularize. He did not tell the reader that the committee visited but a few of the hundreds of towns in western Pennsylvania where mines are operating steadily. He made no mention of these mining communities where men, women, and children are living under excellent conditions. He gave the uninformed reader the impression that all mining towns in western Pennsylvania are pigpens. He made no distinction between the clean, electric-lighted, well

[17] *Conditions in the Coal Fields of Pennsylvania, West Virginia, and Ohio,* vol. 2, pp. 2775–2800, *passim.*

kept villages of the Pittsburgh Coal Co., with their paved streets, their filtered, tested water, their systematic garbage disposal, their approved sanitation, and the shacks of temporary strike colonies located elsewhere. We feel that a grave injustice has been done this company in this respect. We resent and deny the implication that our non-union employees live like hogs, and our employees resent the reflection upon their personal habits and manner of living. . . .

We believe that liquor has been introduced into our towns, in spite of our efforts to keep it out, by persons who desire to handicap the production of coal in our mines, increase accidents there, cause turmoil and disorder in our towns, and generally demoralize the community as a part of their illegal attacks upon this company. . . .

During the period of open-shop mine operation by the Pittsburgh Coal Co., there have been 159 arrests made for liquor-law violations in our mining villages. Of this total, 107 were employees of the Pittsburgh Coal Co., 5 were proprietors of boarding houses on the properties, and 47 were bootleggers and nonemployees. . . .

All the $800,000 expense for police and deputies to which this company has been put since it started its mines open shop has been made necessary by the presence and activities of pickets, organizers, and representatives of the United Mine Workers of America in and around our properties. . . .

[In support of this contention the Pittsburgh Coal Company offered the following affidavit]:

STATE OF PENNSYLVANIA,

County of Allegheny, ss:

W. H. Barker, being duly sworn according to law, deposes and says:

I am superintendent of the Gallatin mine of the Pittsburgh Coal Co. in Forward Township, Allegheny County, Pa., and have been ever since and before the mine opened on an open-shop basis November 8, 1926.

Gallatin mine is formed by the consolidation of Gallatin, Sunnyside, and Manown mines and the normal number of employees is about 425. When we opened we started with 104 men, which number has increased until on the date of this affidavit there are 413 men. These men are composed of union and non-union workers, about 60 per cent colored and 40 per cent white, the greater part of whom reside in company houses. There are approximately 175 houses owned and maintained by the Pittsburgh Coal Co. at the three mines for the use of employees. . . .

Owing to picket agitation we are compelled to haul the men living in the Sunnyside houses from their homes to work, because men are stoned and jeered at, called names, and several of them have been shot. . . .

On May 29, 1927, the boarding house at Gallatin was dynamited. A number of employees have been assaulted and one of our watchmen has quit his work because he says he was shot at a few nights before near the power plant.

I am convinced that we need police protection at the mines for the following reasons:

1. To give the men a sense of security, as I am further assured of this by my contact with them. They have expressed themselves as afraid to go about without police protection.

2. I am convinced that the mine property would not be safe without police protection, especially at night, as there have been a number of threats to blow up the plant.

3. It has been reported to me that some of the pickets of the United Mine Workers have said that if we would take the coal and iron police away they would come down and clean up the patch, which leads me to believe that the police are a deterrent toward the prevention of violence on the part of the pickets.

There are no strike breakers at this mine, and practically all of the employees are here with the intention of making it their home. . . .

The employees are satisfied with conditions. All the company houses have been wired and are using electricity.

W. H. Barker, *Superintendent.*

Sworn and subscribed this 16th day of April, 1928, before me,

[seal] C. W. Parker, *Notary Public.*

My commission expires March 11, 1929.

[The following exhibit was taken from the Pittsburgh Coal Company police department's files and offered in support of the company's claim that these police were necessary]:

Subject.—Dynamiting of houses at Essen No. 3 mine.

1. On Sunday, March 27, 1927, at about 3.20 a.m., houses Nos. 79–81, in the Essen camp of the Pittsburgh Coal Co., located at Presto, Pa., were damaged by a dynamite explosion.

2. These two houses are part of a block of four houses, located at the extreme end of the camp. In the rear of these houses is a small stream of water, about 6 feet or 8 feet wide, and on investigation, the police department of the Pittsburgh Coal Co. found that some person had followed down this creek on the side opposite from the houses, crawled down the bank and waded across the creek and placed the explosive at the base of a chimney between houses Nos. 79–81, and which chimney is about 8 feet from the bank of the stream.

3. All four houses in this block were occupied at the time, but fortunately no one was injured.

4. The explosion tore a hole in the foundation of the chimney, tore some of the boards from the side of the house and damaged the houses on the inside.

5. At the time of the explosion, house No. 81 was occupied by a family consisting of husband and wife and two children.

6. At daybreak the police in searching the ground on both sides of the creek at this point on the opposite of the houses, found a number of rifle cartridges which had apparently been dropped by the person or persons, who committed the act. These cartridges are of a size and make which are not used by the Pittsburgh Coal Co. police department, and it is the

opinion of the investigating officers that the persons or person who committed the dynamiting were armed with a rifle at the time this occurred and dropped while running from the scene after setting the explosive.

7. The country around Essen camp is populated by a number of former employees of the Pittsburgh Coal Co., who are union miners and are known to be hostile to Pittsburgh Coal Co., and its employees, and have, before and since, the explosion given the company and its employees considerable trouble and annoyance by their violent and abusive and disorderly tactics, even going so far as to open fire on the houses from the hills and from the highways with rifles, shot guns, and revolvers, necessitating the coal and iron police at this point to make a number of arrests of union sympathizers and strikers for their disorderly—

(The sheet from which above was copied at this point is marked "(Cont'd.)" but the continuation sheet did not accompany papers.)[18]

Mr. Morrow, testifying before the Committee in answer to questions by Senator Couzens, made the following statements:

The Pittsburgh Coal Co. maintains a force of coal and iron police, not because it desires to do so, but because it is compelled to protect its men and its property in this manner. . . .

The entire cost to the Pittsburgh Coal Co. of maintaining coal and iron police and deputy sheriffs for the protection of its employees and property since it started operating its mines open shop is as follows: For 1925, $22,882; for 1926, $199,560; for 1927, $472,200; and for the first four months of 1928 approximately $12,000, or a total of more than $800,000.

This committee should understand clearly that the organization and employment of this police force was not at our desire nor of our choosing. It was a measure of necessity on our part. Continual picketing of our properties, constant threats directed at our employees, almost daily instances of brutal assaults of our workmen, the burning down of our houses, the dynamiting of residences of our people at night, and a long unending succession of conscienceless depredations upon our open-shop workmen, who are exercising the right to choose their own place and conditions of work; who are exercising the liberty guaranteed them under the Constitution of the United States, finally compelled us to take measures to protect ourselves and our men. They were fearful for their lives and the lives of their families. We assured them that we would protect them to the best of our ability. We have done so, and will continue to do so. . . . This company has faithfully endeavored to employ capable, trustworthy, dependable men. We may not have succeeded in all instances . . . but today we have a body of men trained and experienced in work of this kind, of whom we are justly proud. Of the 104 commissioned coal and iron police in our employ at present, 66 have had military service; 19 have had service in the State police of Pennsylvania; 6 in the Pennsylvania highway patrol; 7 have served as municipal policemen in various cities; 4

[18] *Conditions in the Coal Fields of Pennsylvania, West Virginia, and Ohio,* vol. 2, pp. 2539, 2557, 2560, 2578, 2598–2599, 2602–2603.

have had experience as railroad policemen; 9 are former deputy sheriffs; 5 have been special police officers for corporations serving in capacities other than coal and iron police; one man has had service under the United States Department of Justice; one under the United States Immigration Service and one on the United States border patrol. . . .

In spite of complaints against the coal and iron police registered with this committee, we know that the men of our force have exercised great restraint and patience in the face of insult, provocation, and even assault by union sympathizers.[19]

[19] *Conditions in the Coal Fields of Pennsylvania, West Virginia, and Ohio*, vol. 2, pp. 2643–2645. To avoid creating a *chronique scandaleuse* of this section, the reader is referred for further such data to *ibid.*, pp. 3038–3366.

Generally speaking, the functions of the coal and iron police are identical with those of other types of private police, i.e.: protection of property, preservation of the peace, apprehension of offenders, or prevention of any action by any one likely to impair the rights and prerogatives of the employer.

Specifically, however, the functions of coal and iron police differ from those of other types of private police. Because of the specialized nature of the industries which employ them and the fact that much of their work is of necessity not strictly police work, such duties as inspection of health facilities in company towns, safety work in steel mills, acting as eviction officers, and so forth, fall within the scope of service imposed upon them.

In a letter to the writer, dated July 9, 1930, Dr. L. E. Young, of the Pittsburgh Coal Company, stated:

> The functions of the police are to protect the property and workmen of the Company and to preserve law and order on the Company's property. A part of their duty is in checking up of health and sanitary conditions, prohibiting the manufacture, sale and dispensing of liquors in Company villages, and guarding against fire. As to the enforcement of health laws, the police check conditions and if necessary make report to the State Department of Health and to local health authorities, and assist them when called upon. As to the enforcement of liquor laws, where liquor is being manufactured and brought into the village they furnish information to the prohibition authorities. Their duties are those of a police officer of the City of Philadelphia and they exercise the same without any direction, control or supervision on the part of the Company. Police are hired after being thoroughly investigated as to their character, ability, and experience. The police as a rule come to us recommended by state police, county authorities, or other police officers. It has been the aim of the police at all times to avoid making arrests and at the same time keep the peace.

In normal times the coal and iron police act largely as watchmen, and, generally speaking, efficiently perform the duties their positions require. In a sense they supplement the local police, but more strictly they are sharply separated from public police, with very little in common with them. Their relation to the State police appears closer, and while both the coal and iron and the State police disclaim responsibility for the violence which characterizes strikes, they nevertheless supplement each other rather

definitely. The private police prefer to work with the State police rather than the local constables. The reasons may be found in the fact that many of the coal and iron police have been recruited from the State police, whose ranks they were required to leave when they married; also, the coal and iron police have more confidence in a "square deal" from the State police during strikes, since many of the local constables are or have been union miners or employees of companies whose employees are on strike.

Coal and iron police, according to Captain Sourbeer, are expected as a matter of routine duty to keep the company towns free from immorality. He summed up their duties in the phrase, "Keep these towns peaceful and quiet." It may be pointed out that such simplification of their duties involves problems particularly difficult to solve, when it is remembered that a large number of the miners represent antagonistic racial and cultural groups who are unable to understand or to accept the American definition of crime, since their backgrounds do not define certain types of behavior as criminal. Nevertheless, coal and iron police are expected as a matter of course to be familiar with customs and traditions which various national groups bring into these isolated mining communities. It should be evident that successful police work in these company towns presupposes a knowledge of customs, traditions, and foreign law which ordinary public police cannot be expected to possess. Not a little of the difficulty encountered in policing these communities lies in the persistence on the part of coal and iron police in viewing all foreign-born miners as fundamentally identical; in other words, as simply "damned hunkies."

It may be pointed out that the success of police work in mining regions is largely dependent upon the harmonious relationship of the police with public police and justices of the peace. Further, there is a direct relationship between satisfactory police work and intelligent discretion. The coal and iron police hold a powerful position for good or evil. Where hundreds of workers and their families must live under the jurisdiction of private police, it becomes imperative that great care be exercised in selecting the officers who are to be stationed among them. Even more than in any other type of private police, it is absolutely necessary that tact, understanding, dignity, and impartiality be characteristics of police in control of coal mining communities. If these are absent, the towns become faithful replicas of medieval baronies, the police exact replicas of armed retainers, and miners exact replicas of earth-bound serfs. Union miners maintained with vigor that such was the condition during the last heroic struggle in western Pennsylvania.

It may be noted that these police were "on duty" twenty-four hours a day; in other words, there were no specific hours of labor.

Organization and equipment

Police departments, public and private, are semi-military in character. Even as municipal police, the coal and iron police are organized under a central authority—this central authority differing among the various industrial establishments. Generally speaking, a ranking officer of the corporation is in general charge, while a chief of police or captain of police is in immediate charge in the field. Lieutenants, sergeants, and privates constitute the line organization. Inspection and control of headquarters, as well as *liaison* officer for the company, fall within the scope of the chief's jurisdiction. In some organizations the hiring and discharging of police are also in the hands of the chief. Lieutenants generally have direct charge of substations at the mines and are responsible to the chief for company town conditions and the conduct of police in the district. Sergeants have immediate control of "roundsmen" or privates, and report to lieutenants. The sergeant, and even lieutenants, may also have charge of privates in their activities during strikes. The privates serve many purposes. Not only patrol duty but also settlement of disputes and counsel to erring individuals fall within the scope of their duties. These privates come into direct contact with the miners, and the character of their work is often the crucial factor in maintaining peace and order. Besides these there are clerks attached to headquarters who may or may not be police commissioned by the State.

It is axiomatic that intelligent and efficient police work is definitely correlated with the type of chief under whom the police function. It may be said that chiefs of coal and iron police, both in coal and steel industries, were found to be intelligent, well-informed, and competent officers, when the writer visited the major organizations. There is no doubt, however, that some, even of these, encouraged and participated in behavior definitely extra-legal. As one of them stated: "No policeman is allowed, under penalty of dismissal, to strike a prisoner, if the prisoner alone is involved. But if the officer knows that there are several offenders involved, he should make the prisoner talk, even if he has to beat hell out of him to get the dope." A practice as widespread and traditional as the infamous third degree is indulged in by coal and iron police as well as their "scientific" colleagues, the municipal and State police, and is justified by the same misguided defense—"we'll show 'em they can't get away with it."

The equipment of coal and iron police is not the same for any

two large companies. Operators freely admit that guns are furnished by the company, but in one instance the head of a private force said that many policemen hired during the strike had their own pistols. Ammunition is stored at headquarters. Police may sign for the number of rounds furnished. A nightstick is sometimes provided by the company. Uniforms and blackjacks are usually paid for by the policeman, while the badge (even as the pistol), when furnished by the company, is returned when the officer leaves the employment of the company.

During the strike, tear-gas bombs were purchased by some of the coal companies, and were used on a number of occasions to disperse pickets and union miners alleged to be obstructing the passage of non-union miners on their way to the mines. Machine guns were also bought by some of the companies, but no evidence could be secured to show that they had been used. Their purchase is evidence enough, however, of the seriousness of the situation. Shotguns and rifles were also added to company arsenals.

Even as casual a description of the armories of the coal companies as presented above is sufficient to persuade the skeptical that comparing modern industrial coal and iron police with medieval mercenaries is not entirely a distortion of reality.

Salaries and records

At the time information was sought relative to the costs and the records kept of the activities of the coal and iron police, company officials had not yet become completely readjusted, and were suspicious of all investigators. They seemed to regard the writer as a cross between a union spy and a reporter, bent upon wreaking calumny upon the heads of those responsible for the destruction and misery which were an integral part of the strike. On the other hand, the union officials with whom the writer talked in Pittsburgh gave the impression that the investigator very likely secretly sympathized with the owners, so that when documentary evidence was asked for in support of the many wild charges verbally made, the usual reply was merely a gesture of the hands.

However, sufficient validated information was secured to give a general view of the wage scale prevailing in the bituminous fields. Generally speaking, the salaries ranged from $180 per month for the first year to $190 the second year, and $200 the third year. Salaries did not increase much beyond the amount paid for the third year unless the officer entered an executive position, such as that of chief of the force. Board and room were furnished in most cases, in addition to the salary.

It is likely, though the writer could not secure any authentic in-

formation on the point, that coal and iron police in the employ of the steel companies, such as the Carnegie Steel Company, were not paid so well as those employed by the coal companies. Chief Leo O'Neill, under Vice-President L. H. Burnett, of the Carnegie Steel Company, declined to answer any questions. Mr. O'Neill said that the three hundred coal and iron police working under his direction were largely recruited from among the older employees, and their duties were chiefly in the field of safety work. They were carefully selected, he said, and received monthly and hourly rates of pay.

The coal operators vigorously denounced the whole system of private police, and pointed to the large tax payments levied by the State as argument that the State should perform its obvious duty and furnish protection without imposing the costs upon the companies. One operator went so far as to say that the owners would gladly pay a special tax for State police protection. He agreed that coal and iron police, commissioned by the State and supervised and paid by the company, constituted a standing challenge to labor, in addition to being a heavy drain on the company treasury. Deputy sheriffs, he said, were even worse, if possible. "In the case of coal and iron police we at least can select our own men, but in the case of deputy sheriffs we have to take the riff-raff suggested by some cheap politician to whom the sheriff owes something. Deputy sheriffs are simply bums, ward heelers and City Hall loafers," one operator told the writer.

The cost of maintaining the Bureau of Industrial Police at Harrisburg, which was created by the Mansfield bill in 1929, was approximately $12,000 a year "including salaries, transportation and traveling expenses of investigators." This amount "was offset" by the amount accruing from the issuance of commissions at $5 each. On 1,336 commissions issued, this would amount to $6,680.[1]

It has been estimated by union officials, by operators, and by coal and iron police heads, that prior to Governor Pinchot's revocation of all commissions there were, including all types of Industrial Police except railroad police, approximately 2,000 such private police in the entire State. During strike periods the number at certain times has reached as high as 6,000. Allowing 2,000 as a fairly conservative estimate of the average, even during the bituminous troubles from 1925 to 1930, at an average salary of $150 per month, it will readily be seen that the monthly pay roll for private Industrial Police in Pennsylvania was at least $300,000, or an annual pay roll expenditure of $3,600,000. For the five-year

[1] Letter from Governor Gifford Pinchot, March 7, 1932.

period $18,000,000 would have been paid out, to which sum must be added the maintenance costs for these police. This estimate is exclusive of deputy sheriffs, industrial undercover work, and police equipment.

Prior to the creation of the Bureau of Industrial Police, no records were available relating to the activities of coal and iron police. Regular reports were required, however, following the enactment of the Mansfield bill. These reports were sent monthly to Secretary George F. Lumb at Harrisburg, describing the nature of the work done, the charges preferred, and the number of arrests made. It was impossible to secure the reports filed in the Bureau, but several specimens were examined at the police headquarters of certain coal companies. Notice of dismissal or resignation of police was noted. Names of offenders, types of offense, and disposition of cases, were entered in the reports. One report of a dismissal read: "Too friendly with bootlegger." These reports were transmitted weekly by the chief of police to the corporation officer, who in turn submitted the monthly report to the Bureau of Industrial Police. On April 30, 1931, Secretary Lumb wrote that "the average number of arrests made by these Industrial Police is 325 a month." This is fairly low when it is remembered that there were 1,050 commissions in effect on the same date.

Governor Pinchot furnished the following statistics of arrests. It was not possible to secure the exact nature of the offense, the names of offenders, their location by companies, or the final disposition of the cases:

Replying to your letter of March 10 with reference to arrests made by Industrial Police, I find that the companies employing Industrial Police were not required to report the arrests made during the month until April, 1930. For that month and the months following, the arrests shown below were made by the Industrial Police throughout the State, making a total of 4,591. This shows the arrests made by month up to June 30, 1931 when the Industrial Police were discontinued.

April, 1930	342	January, 1931	294
May	268	February	294
June	288	March	432
July	333	April	231
August	335	May	292
September	325	June	328
October	316		
November	267		1,871—1931
December	246		2,720—1930
	2,720		4,591—Total

Powers of the coal and iron police

Courts have not specifically defined the police powers of the coal and iron police. By statute their powers are, like those of railroad police, identical with the powers of uniformed police of the City of Philadelphia, and of constables of the Commonwealth of Pennsylvania; in other words, "general police powers." Representative M. A. Musmanno, who gave the closest attention to the legislation designed to regulate such police and eliminate the abuses which are charged against that type of police system, prepared the following analysis at the time he was presenting his bill for enactment in 1929:

Pennsylvania "Coal and Iron Police" are appointed by virtue of the Act of 1865 P. L. 225, which provides for such policemen for railroad companies, the provisions of which were extended to owners, lessees or other persons in possession of collieries, furnaces and rolling mills by Act of 1866 P. L. 99.

By the Act of 1865 the commissions of such policemen must be recorded in each county in which the company owns property and in which the policeman is to act.—They are given, "all the powers of policemen of the city of Philadelphia in the several counties in which they shall be so authorized to act."

Since railroad police and coal-and-iron police derive their powers from the same act, authorities as to the one are applicable to the other.

Such policemen are more than mere agents of the companies at whose instance they are appointed. They are public officers, and unless acting at the time for the special protection of the company's property, the company is not liable for false imprisonment, etc. committed by such officer. But they may be acting as agent of the company as well as public officer, at the same time. *Bunting* v. *Pa. R. R. Co.*, 284 Pa. 117, 120; *Finefrock* v. *North Cent. Ry. Co.*, 58 Pa. Super. 52, 59; *Naugle* v. *P. R. R. Co.*, 83 Pa. Super. 528.

In *Bunting* v. *Pa. R. R. Co.*, 284 Pa. 117, 120 the Supreme Court said:

> "The authority of officers appointed under this act is not limited to offenses committed against the railroad. Their powers are general, as the Act expressly confers the right to arrest all persons engaged in the commission of any offense against the laws of the Commonwealth which may be committed on railroad property. In making arrests for violation of law not immediately concerning property of the railroad company, these officers act not as agents of the company, but as policemen."

The courts have apparently been unwilling to define the powers of these policemen,—in the comparatively few instances that question has been raised before them. They say that they have powers of Philadelphia Policemen, as of 1865 (*Burford* v. *Richards*, 58 Pa. Super. 8, 12) but avoid describing such powers.

The statement of the Supreme Court in *Bunting* v. *Pa. R. R. Co.*, *supra,* that the act confers the right to arrest for the commission of any crime *on railroad property* probably is not meant to be exclusive, in regard to the location of the crime. The Act of 1865 does require jailers, etc., to receive persons arrested by these policemen "for any offense . . . upon or along said railroads or the premises of any such corporation:"—but the provision as to the authority of the officers says they shall have all the powers of policemen in the several counties. In an opinion rendered February 24, 1926 (7 Pa. D & C 596), Deputy Attorney General Campbell concluded, "the only limitation upon the exercise of (their powers as Philadelphia policemen) is that they shall not extend beyond the county or counties within which the individual policeman has been qualified to act by the filing of his commission and a copy of his oath of office with the recorder of the county." He concluded that they may exercise their powers whether on or off the property of the company for which they were appointed as state officers, but were not subject to call or control by local police authorities. This would seem to be a proper construction of the law in view of the repeated statements of the courts that they are public officers,—although the wording of the Act as above quoted, might be construed to permit arrests for crimes committed on or near company property only.—The point does not seem to have been passed upon by our courts.

In *Burford* v. *Richards,* 58 Pa. Super. 8, 12, it was held that a coal-and-iron policeman had authority to arrest without a warrant, persons trespassing in his presence on property of his employer posted with trespass notices.—In the course of its opinion, the court said: "He is authorized by law to arrest on view," and then proceeds to state the general rule that an officer may arrest without a warrant if he has "reasonable ground to believe that a felony has been committed, or, if in the presence of the officer a misdemeanor has been committed by the person taken into custody."

To the same effect is *Burford* v. *Rainey,* 42 Pa. C. C. 137; also *Com.* v. *Rubin,* 82 Pa. Super. 315, 321.

Among the offenses for which these police may arrest without warrant, when the offense is committed in their presence, one of the commonest of occurrence is breach of the peace. And it has been held that where such an officer directs a person to desist from violation of reasonable rules of the company, and such person refuses, and resists the officer, attempting to compel obedience, such resistance is a breach of the peace for which the officer may arrest.—This occurred in *Smith* v. *N. Y. L. E. & R. Co.,* 149 Pa. 249, when a hackman resisted a railroad policeman when the latter sought to remove the plaintiff's horse and hack from a certain part of the railroad premises at a station. Of the same kind is *Weiler* v. *P. R. R. Co.,* 12 Pitts. L. J. 347, 349.

It is clear, then, that such officers may enforce reasonable rules of their companies in regard to their property and may arrest for resistance to efforts to enforce such rules. They may, in fact, arrest for any offense committed in their presence, without a warrant.—They must, of course,

in any case of arrest without a warrant, make prompt complaint before a magistrate, etc., *Burford* v. *Richards,* 58 Pa. Super. 8, 12. They may arrest without a warrant for felonies where felony has been committed and there is reasonable ground for believing the person arrested committed it; this any citizen may do, and *a fortiori* an officer may do so: *Com.* v. *Grether,* 204 Pa. 203. And such an officer may serve a warrant for any offense: *Com.* v. *Baird,* 21 Pa. C. C.

The powers and duties of the policemen appointed under the aforesaid Act and its supplements, are well defined in the case of *Finefrock* v. *Northern Central Railroad Company,* 58 Pa. Super. Ct. 52. In this case (page 59) the Court quotes with approval from the case of *Tucker* v. *Erie Railroad Company,* 69 N. J. Law 19, construing a similar statute of New Jersey, *inter alia,* as follows:

"It is plain, from a reading of the provisions of this statute, that although these men were appointed upon the application of the defendant company, received their compensation from it, and were subject to be divested of their powers by its act, they were, nevertheless, State Officers, constables, authorized to arrest persons guilty of criminal offenses or breaches of the peace not only in cases where property of the company was involved, but in every case where the crime was committed or the peace broken within the borders of any of the counties through which the company's railroad ran. For the proper discharge of their official duties as well as for the proper exercise of their official powers, they were responsible, not to the defendant company, but to the State."

It seems that such policemen have the power to arrest without a warrant for breaches of the peace committed in their presence, as in cases of persons violently resisting their orders in carrying out the lawful regulations of the company, and the persons cannot recover damages for injuries sustained while thus resisting arrest. *Weiler* v. *Pennsylvania Railroad Company,* 29 P. L. J. 347, 1882; *Smith* v. *New York, Lake Erie and Western Railroad Company,* 149 Pa. 249, 1892.

Irrespective of the powers conferred by this Act, it seems that a warrant issued to such policeman, and served by him, is valid and binding: *Commonwealth* v. *Baird,* 21 Pa. C.C. 488. It seems, also, that he may be employed for subpœnaing witnesses, and in that case, he may receive proper compensation for the County: *Hamlin* v. *Berks County,* 8 Pa. C. C. 462.

Since the existence of the coal and iron police is derivative, in the sense that their creation was brought about by a supplemental act of the railroad police law, it is evident that, as Mr. Musmanno indicates, decisions as to police power of the one are applicable to the other. By reference to the discussion of police powers of railroad police contained in the chapter on Railroad Police, together with Mr. Musmanno's examination, one fact emerges with clarity: "Private Police" are a contradiction in terms. They are public police officers and employees of private industrial enterprise. They are a kind of legal dual personality.

Conclusions

Throughout the foregoing pages on coal and iron police an attempt has been made to present the best information available on this highly controversial problem. Several conclusions appear justified: First, coal and iron police, as at present organized, supervised, controlled, and compensated, are unsatisfactory. Second, thus far all legislative attempts to improve methods of industrial policing have met with failure. Third, organized labor must assume much of the responsibility for industrial chaos during emergencies. Fourth, mine owners and industrial groups are not entitled to special protection by the State, involving a delegation of the police power for such a specific purpose. Fifth, and perhaps most important, the difficulty which lies across the path to satisfactory solution is the antagonism between owners and union labor, and the fear that reasonable concession by either amounts to abdication. When owners and labor forget their struggle for triumph over each other, and honestly face the reality of the situation, the coal and iron police problem will be on the high road to solution.

PRIVATE DETECTIVES

CH. IX. LEGAL ASPECTS AND TYPES OF WORK

Private detectives are not police except in relatively rare instances, when they are granted police power by the state or city empowering them to act as special police. The fact of possessing a license to conduct a private detective agency does not involve the delegation of police power. Nevertheless, private detectives do engage in investigatory work which is comparable in character to that conducted by public police, and largely through a kind of word magic and the power of the badge, the public generally, and the courts specifically, have come to regard private detectives as quasi-police officers. For these reasons they are included in the present study.

Private detective agencies furnish private watchmen, private patrolmen, guards for strike duty, and special police for public gatherings, all of whom are police officers and perform duties exactly the same as those of public police officers, although geographically restricted in the exercise of the police power granted to them for such specific purposes, and existing only for the period of the employment as special police. Thus, special police power is not possessed by the private detective *as* a private detective, but as a watchman, a guard, a private patrolman, and so forth.[1]

Since the advent of Nick Carter more than forty years ago, the adventures of the private investigator have held a peculiar fascination for all sorts of mentalities, ranging from the occupant of the White House to the obscure Yankee chore boy in the New England hills. Several familiar figures, such as Old Sleuth, Sherlock Holmes, Philo Vance, Nayland Smith, *et al.,* have penetrated the impenetrable, solved the insoluble, and accomplished the impossible in a series of breath-taking, hair-raising, and death-defying adventures, by uncanny intuitions and amazing deductions. With all respect to the superhuman attributes of the detective of literature, modern detective work is replete with thrills only in the telling. Further, modern private investigators rarely investigate criminal cases such as literature has made famous.

The present-day private detective is engaged for the most part in investigatory work of a noncriminal character. The development of modern urban society and a complex industrial organiza-

[1] 18 C. J. 979.

tion has increased the number of problems confronting modern business for which the private detective is employed. To be sure, private detectives are much in demand by persons and organizations suffering loss from robbery and false claims which preclude publicity if successful investigation is to be performed, and in these cases criminal investigation is handled by agency men; but generally speaking, the private detective investigates few of the crimes which ordinarily come to the attention of public police departments, although these departments may employ agency men for vice and graft investigations.

Legal aspects

Since the private detective is a *legal* creation, an attempt will be made at this point to indicate the meaning, the purpose, the powers, the mode of compensation, and so forth, of private detectives as defined by the courts:

A private detective is one engaged by individuals for private protection. The rendition of services without compensation does not constitute a person a private detective, as a matter of law. A private detective, although licensed, is not generally regarded as a public officer [8 Pa. Co. 347], although he is vested with statutory authority to serve warrants in criminal cases, where there is no duty to do so [8 Pa. Co. 347]; but it has been stated that a private detective is in essence a quasi peace officer [16 Ga. A. 64] and that where he has the power to serve warrants in criminal cases and is subjected to the supervision of the courts, he is, in a sense, a depositary of the police function of the state and is bound to exercise his business with a due regard to the legal right of all [24 Pa. Dist. 1068]. Where private detectives are vested with the powers and duties of public officers, the constitutional provisions relating to such officers apply to them [72 SW 306].[2]

Another view, perhaps more illuminating, as to the legal character of the private detective is, "A private detective is a person engaged in obtaining secret information or guarding the private interests of those who employ him."[3] This statement, it should be noted, includes the gathering of "secret information," which the Corpus Juris fails to mention, but which is central to *any* understanding of the private detective. Appended to the definition presented above, in Note 2, 53 N. Y. Suppl. 1043, is the following explicit decision: "No such settled significance attaches to the term 'detective' as of necessity imparts authority to criminals or persons charged or suspected of committing criminal acts."[4]

A careful reading of the court's unequivocal statement must re-

[2] 18 C. J. 979.
[3] 14 Cyc. 234.
[4] 8 Pa. Co. Ct. 347. 34 N. Y. App. Div. 10.

sult in considerable doubt as to the court's first-hand knowledge of the ratiocinations of "persons charged or suspected of committing criminal acts." This may be excellent legal fact, but it is hardly consonant with ordinary experience. The hard, cold fact is that the average citizen believes that the term "detective" by its own power contains the right to make an arrest for an offense committed, not as the right of the citizen but as a power inherent in the "detective."

It appears from the above citations that the courts agree that in the absence of specifically delegated police power, no such power is vested in the detective, and, regardless of the popular belief, no "authority" of necessity exists. Since no distinction is made between the "detective" (the person licensed) and the "operative" (person in the employ of the licensee), it would appear that the evident intent of the courts has been to subsume the operative under the title "detective," and regard both as the same for judicial purposes. There is the implicit assumption that although in most states no license is required of operatives in the employ of the agencies, nevertheless they, too, are "detectives" within the definition imposed by the decisions.

While the public detective official (generally a member of the police department, a county detective, and, in some states, a state detective) may look to the state, the county, or the municipality for his compensation, and such compensation is generally fixed by statute, the private detective

> must look to his employer for his compensation and his performance of acts or duties usually performed by public officials does not entitle him to tax his charges against the public as costs; but he is entitled to compensation for the performance of services which might be rendered by any citizen.[5]

Two criteria emerge from the foregoing analyses for the determination of what legally distinguishes private detectives from public police on the one hand and private citizens on the other. First, there is the purpose for which detectives are licensed, namely, to secure secret information for private or public individuals or organizations; and second, the method of compensation, which is a prearranged contractual sum agreeable to the detective and his employer, without statutory limitations as to the amount to be paid. In connection with the first criterion, be it noted that the procuring of the license is imperative. Without this the private detective cannot legally come into existence, and by the

[5] 14 Cyc. 235; 18 C. J. 982.

same requirement cannot function *as* a private detective in states where licenses are mandatory.

The above analyses may be regarded as binding in any state where private detective agencies are to be found; but because of the specific statute governing such agencies in the State of Pennsylvania, certain other legal phases of private detective activity, such as competency of testimony, which have been passed upon by the Pennsylvania courts, will be deferred until later.

Types of cases handled

Having established the distinction between private detectives and public police and private citizens performing identical kinds of investigatory work, it may not be unprofitable to turn for a moment to describe the kind of business ordinarily handled by a well-organized national private detective agency.

A truly amazing variety of cases is handled by detective agencies. The Pinkerton's National Detective Agency in its circular literature lists the following types of detective service regularly provided:

1. *Legal Profession.* We coöperate with attorneys in the investigation of all classes of business intrusted to them, excepting divorce work or collection of bills. We locate missing heirs and witnesses, concealed assets, and serve legal papers.[6]

2. *Patent Attorneys.* "We are experienced in investigations of patent infringements."

3. *Public Prosecutors, State and District Attorneys.* We are fully equipped for the investigation of murders and other crimes, and are experienced in the securing of evidence in the interest of justice.[7]

4. *Bonding, Insurance, Surety Companies.* Incendiary Fires, Arson, Burglaries, Thefts, Embezzlements, Bond Defaulters, Suspicious Life, Accident, Workmen's Compensation and other claims, thoroughly, efficiently and economically investigated.[8]

5. *Corporations, Banks, Business Houses.* We have unequaled facilities, through special service in plants, factories and business houses to expose and correct existing faults and abuses such as radicalism, discontent, dishonesty, inefficiency, favoritism and pay roll irregularities. We accurately determine the ability, activity and fairness of supervisors or

[6] Parenthetically, it may be noted that private detectives are employed as "runners" by lawyers in "ambulance" cases and alleged claims for injury. This practice has been condemned by the court as unprofessional. 24 Pa. Dist. Repts. 4, 9.

[7] It is only fair to note that "the interest of justice" exists only so long as the per diem rate is paid, which is necessarily true since private detective agencies are a *private* business.

[8] Many such organizations maintain a regular employee staff of investigators and adjusters.

foremen in the exercise of their authority. Employees and applicants for employment investigated for fitness, honesty and character.[9]

6. *Railway, Traction and Bus Companies.* We maintain a competent corps of inspectors to check for service, efficiency, deportment and honesty.[10]

7. *Retail Stores.* Our service protects against shoplifters, pickpockets, and other criminals. Thefts by employees detected and dishonest schemes exposed. Our Store Inspection Service is unexcelled.[11]

8. *Criminal Investigation.* Our facilities for investigating crimes of professional and amateur criminals are unequaled. In addition to our extensive collection of photographs and records of criminals, we have the coöperation of the Police and Prosecuting Authorities throughout the United States, Canada and Europe.[12]

9. *Fairs, Races and Trotting Meetings, Exhibitions, Football and Other Athletic Events.* We furnish detectives with knowledge of professional thieves and other objectionable persons attending such events to protect patrons from loss and annoyance. We supervise the gates and admissions, and supply uniformed special watchmen to patrol grounds.[13]

10. *Weddings and Other Social Affairs.* Properly attired detectives are detailed to protect gift rooms and to provide such other protection as circumstances require.[14]

11. *Uniformed Watchman Service.* Men in uniform furnished for all classes of watchman service, day or night.[15]

The Pinkertons offer a formidable array of activities, but such a list far from exhausts the types of work undertaken by private detectives. Even if the policy of the Pinkertons precludes divorce,[16] graft, vice, political investigations, and collection of bills,

[9] The first sentence is a euphonious description of what is, in plain language, labor espionage. The second sentence presupposes the possession of a graduate degree and gives rise to a mild doubt as to the accuracy of the claims relative to the ability of the inside operative.

[10] Again, a euphemism for "spotter."

[11] In this field are a number of services specializing in department stores, one of which reported that the Pinkertons recently entered this field because of the decline of other business.

[12] The coöperation of the police is largely perfunctory if the statements of the police are reliable. No private detective agency receives any coöperation from the Bureau of Investigation, United States Department of Justice. This has been true since 1924.

[13] The watchman may or may not have police power, but undoubtedly the presence of the guard with gray uniform, badge, and police cap is at least a "psychological" service.

[14] These, if not possessing police power—and it is probable they do not—might in a sense be regarded as bouncers in tuxedos.

[15] These have special police power.

[16] See Siringo, Charles A., *Two Evil Isms: Pinkertonism and Anarchism,* Chicago: Charles A. Siringo, 1915, p. 11, for a denial of such a policy by the

these and many other forms of detective business are acceptable to other agencies. In fact, the writer is convinced that *any* type of investigation and *any* type of information will be secured by *any* method necessary, by some of the blackmailing rackets currently known as detective agencies. These latter agencies, together with the stool-pigeon ethics of industrial undercover work, have produced an aversion to private detective agencies on the part of the public. Undoubtedly there are many agencies that are definitely crooked; perhaps a majority are; but the fact remains that a few agencies enjoy public confidence, at least for certain kinds of detective work.

It should be borne in mind that private agencies will not and do not divulge more than casual and innocuous information to the investigator, and therefore it is impossible to secure documentary evidence of specific allegations in a given case. The usual sum of information obtainable amounts to: "We sell our services." Information from ex-employees or persons who have suffered loss at the hands of an unscrupulous agency is not reliable, and although much of that sort of material is in the writer's possession, it is of no value because of its dubious accuracy. In diplomacy the *depêche particulière* is the most secret sort of document, but it is no more secret than the material in agency files when the latter is sought for publication.[17]

This is not to be regarded as a complaint against agencies, since their work is valuable only to the extent that it remains absolutely secret. This fact places a tremendous responsibility upon agencies to maintain a high degree of integrity and honesty in dealing with clients, since in cases where operatives have "sold out," honorable and respectable persons have suffered both socially and financially. This latter fact has given rise to the belief that private detectives, as a class, are swindlers and blackmailers. The following excerpt makes the meaning clear:

> . . . Men of intelligence and integrity do not become detectives; it is an employment which attracts an inferior personnel in the first place, and debauches even them; and it gains no results worth having which could not be achieved in other ways.[18]

Such generalizations are hardly scientifically accurate, but they serve the purpose of indicating what may too often be partly true.

Pinkertons. It is only fair to state that although Siringo was once a Pinkerton operative, his statements are far from convincing.

[17] Divulging such information is a misdemeanor in the State of New York. Laws of New York, ch. 79, paragraph 74-b (1927).

[18] *New Republic*, 38: 135, Apr. 2, 1924.

CH. X. AGENCIES IN PENNSYLVANIA

It is a practical impossibility to learn the exact number of private agencies in the State of Pennsylvania on any given date, because no record is kept for the entire State. Licenses are recorded with clerks of courts of quarter sessions, which are county courts designated by statute as courts empowered to issue licenses. Communications directed to clerks of courts resulted in 42 replies from the 67 counties of the State. Of this number 24 reported licenses in force, while 18 reported no licenses in existence. The distribution of licenses in counties reporting was: 1 license per county in 8 counties; 2 licenses per county in 6 counties; 3 licenses per county in 6 counties; 4 licenses in 1 county; 5 licenses per county in 2 counties; and 7 licenses in one county; making a total of 59 licenses in 24 counties.

Allegheny County, in which Pittsburgh is located, reported as follows: On November 18, 1929, there were 58 licenses; on the same monthly date for 1930 there were 60 licenses; for 1931, 58 licenses; and for 1932, 58 licenses. Mr. Lunden points out that "two new licenses [were] issued in 1930 and two resignations" were received in 1931.[1]

After considerable difficulty, the writer found that in Philadelphia County in the winter of 1932–33 there were 183 licenses in force and 7 pending. Thus, there were in 44 counties including the 18 reporting "no licenses in force," 300 licenses, or 300 licenses in 26 counties. It is readily apparent that the two most populous counties, in which Pennsylvania's two largest cities are located, account for 241 of the total 300 licenses.

Licenses are issued in New York by the Department of State, and there were 631 unexpired licenses as of July 1, 1928, while on July 1, 1931, there were 572 unexpired licenses.[2] The New York law, which was approved by the Governor on March 3, 1927, was the result of divorce activity on the part of private detectives.

[1] This information was secured through the courtesy of Mr. Walter A. Lunden of the Department of Sociology, University of Pittsburgh.

[2] *List of Holders of Unexpired Private Detective Licenses.* Issued by the Department of State as of July 1, 1928; *ibid.*, 1931. For any one interested in obtaining a general view of the kinds of agencies in the United States, the *National Directory of Detective Agencies,* published by the Inter-State Service Co., Battle Creek, Michigan, may be consulted.

While the number of license holders in Pennsylvania is virtually impossible to discover, because of either inefficient record keeping or insolence of office, the number of operatives or employees who, in the last analysis, carry on the actual work of the large agencies, cannot even be estimated, partly because of the reluctance on the part of the agencies to divulge the number, and partly because the number is rarely constant and depends upon the nature of the accounts and the volume of business. Allowing five operatives to each licensee as a fair guess, the total would reach 1,800[3] for the number of licenses reported in Pennsylvania. The cost of operation is dependent to a degree upon the nature of the case, the tenure and skill of the operative, and general business conditions; but allowing five dollars per day for each operative, this would approximate $3,000,000 annually. This total annual cost would not include such items as rent, light, supplies, clerical workers, and various miscellaneous expenses. It must be repeated that there is no way to verify these estimates, and they should be accepted as purely tentative and probable rather than as descriptive of existing facts.

It is probable, as stated in connection with railroad police, that industrial undercover work by operatives of private detective agencies has declined appreciably during the past few years, not alone because of economic conditions but also because of the development of intelligence services by the industrial organizations and the conviction that "reports" by agency operatives do not have a value commensurate with their costs. Nevertheless, there remains sufficient demand for labor spies to warrant the conclusion that the majority of large business and industrial establishments employ them more or less regularly. During the bituminous strike of 1928 both union officials and coal operators accused each other of employing private detectives to trail them and watch visitors entering their offices. Offices were hired opposite the building to be watched, and field glasses were used to learn the identity of visitors.

Legal and historical development

Prior to 1887 there appears to have been no statute governing private detectives, as such. Presumably any person wishing to undertake private investigations for compensation was legally permitted to do so. If a corporation was contemplated for the investigation and apprehension of criminals, articles of incorpora-

[3] This total includes, of course, the 300 license holders. Since 33 counties did not report, this estimate, if used for the entire State, is probably fairly conservative, although many counties not reporting are rural.

tion were granted by the legislature to persons comprising the proposed corporation. A number of such "companies" were incorporated, but since in each case the act creating them reads the same, only two will be presented as illustrative of the method. In 1869 a group of persons calling themselves "The Spring Valley Police Company of Crawford County" petitioned the legislature for permission to incorporate. The act which sanctioned the incorporation was as follows:

> The persons who have associated themselves into a company for the recovery of stolen horses and other property, and for the detection of thieves in Spring Valley and vicinity, in the county of Crawford, with such persons as shall hereafter be admitted members thereof, shall be and they are hereby created a body politic and corporate, by the name, style and title of the Spring Valley Police Company; and they are hereby ordained and declared a body politic and corporate in fact and in law, with power to hold property, make contracts, sue and be sued, to choose such officers as they may deem necessary, and to make all needful by-laws, rules and regulations for the government of said corporation and the furtherance of its objects, not inconsistent with the constitutions and laws of the United States or of this commonwealth: *Provided,* That said company shall not hold property to an amount exceeding two thousand dollars.[4]

Each member was to contribute equally to the losses and expenses, and the officers were empowered to assess and collect "the same as other debts are now by law collected."

Section 3 provided that "each and every member of said company shall have the same power of arrest, detention, et cetera, as allowed by law to the police of the City of Philadelphia."[5]

The following year, 1870, on April 5, a similar law was passed permitting the incorporation of the Conneaut Police Company of Crawford County, for the same purpose and embodying the same provisions.[6]

It should be noted that these companies were not strictly forerunners of the modern private detective agency, largely because they were granted police power, which private detectives do not possess. They were forerunners in that their chief purpose was detection and apprehension of offenders, rather than preservation of the public peace and protection of property. Their chief concern was "recovery," which in a measure is the object of the private detective engaged in robbery and theft cases.

A historically curious pronouncement, when the legislative creation of the railroad police and the coal and iron police a few years

[4] Laws of Penna., 1869, No. 991, p. 1002. [5] *Ibid.*, p. 1003.
[6] Laws of Penna., 1871, No. 1359, p. 1486.

before is recalled, is to be found in Governor John W. Geary's veto of an act to incorporate the "Linesville Police Company" on May 16, 1871. Governor Geary, in his veto message, wrote:

> Gentlemen:
>
> After careful consideration I find myself unable to approve Senate bill, No. 586, entitled "An Act to incorporate the Linesville police company." . . .
>
> The second section provides "that the object of the company incorporated by this act shall be the protection of its members against losses by larceny, and the detection, arrest and conviction of thieves."
>
> The fourth section . . . "That *each and every member* of said company shall be and is hereby authorized to make arrests, *with or without process,* of such persons as are suspected of being guilty of theft, *either committed or intended,* and to detain such persons so arrested until they can be carried before a committing magistrate and hearing had, and at all times have the same power in all criminal matters, such as making arrests, serving warrants, subpœnas and commitments, as constables now or may hereafter have, and shall receive for their services the same fees as are or may be allowed to constables for such services."
>
> This strikes me as one of the most extraordinary specimens of legislation ever submitted for Executive consideration.[7]

After citing Article IV of the United States Constitution against unreasonable search and seizure, and other articles further securing freedom from summary arrest, Governor Geary continued: "Our ancestors regarded these safeguards of personal liberty as of great value" and incorporated them in State and Federal Constitutions. After saying that such power even in the hands of the Supreme Court would be dangerous, although the Court's "character and knowledge of legal rights would be some guaranty of its proper use," the Governor declared that to "confer it upon each and every member of the Linesville police company, a corporation without capital stock, and of which, for aught it appears, anybody and everybody who can sign their names, or procure others to sign for them, may become members, would be a statutory outrage." The Governor regretted that the existing laws were not adequate

> for the protection of the good people of Linesville . . . but they have the consolation to know they are under the same laws as the other citizens of the Commonwealth; and in my judgment, the time has not yet come for the State of Pennsylvania to abdicate her authority, or to delegate the execution of this important branch of the criminal law to an irresponsible corporation.[8]

The veto was sustained unanimously, 31–0.

[7] *Journal of the Senate,* May 16, 1871, pp. 1293–1294. [8] *Ibid.*

Present governing law

On May 23, 1887, the law which at the present time governs private detectives in Pennsylvania became effective. The provisions are presented below:

Section 1. *Be it enacted, &c.,* That any person or persons, who shall engage in the business of a detective for hire or reward, or who shall advertise his or their business to be that of a detective, or as conducting a detective agency, without having first obtained a license so to do from the court of quarter sessions of the county, wherein the principal office of such detective or such agency is located, shall be guilty of a misdemeanor, and upon conviction thereof shall be sentenced to pay a fine not exceeding five hundred dollars and to suffer imprisonment not exceeding one year.

Section 2. It shall and may be lawful for the court of quarter sessions, within which the principal office of any person or persons intending to conduct the business of a detective or detective agency shall be located, to issue a license to such person or persons applying therefor for the purposes specified in section one of this act, upon the payment of a fee of twenty-five dollars, for the use of such county, which license shall extend for the period of three years, and shall be revocable at all times by the court of quarter sessions, or any judge thereof, upon cause shown; but no such license shall be granted until satisfactory proof of the competency and integrity of such person or persons shall have been made to the court by petition or otherwise, and until a bond shall have been entered, with approved security, in the sum of two thousand dollars, by such person or persons, conditioned for the faithful and legal performance of his or their duty; such bond shall be taken in the name of the Commonwealth; and any person injured or aggrieved by the illegal act of such person or persons may bring suit on said bond, in the name of the Commonwealth, to his or their use, leave of said court first being had or obtained for the bringing of such suit or suits: *Provided,* That such application for a license shall be filed in the office of the clerk of such court for the period of two weeks before the granting of such license, and public notice thereof shall be given by advertisement, once a week for two weeks, in a newspaper of general circulation in the county.

Section 3. Any person or persons, licensed as aforesaid, shall have the power to serve warrants in criminal cases within this Commonwealth: *Provided,* That this act shall not apply to county detective or detectives appointed by the Governor of this Commonwealth: *And provided further,* That nothing in this act shall apply to agents or employees of said business detectives or detective agencies employed temporarily in the conduct of their business.[9]

[9] Laws of Penna., 1887, No. 107, p. 173. It will be noted that no provision is made for issuance of licenses to corporations; hence all licenses are in the name of a person and not in the name of the company by whom he is employed.

On May 31, 1901, Section 3 was amended to read:

Any person or persons, licensed as aforesaid, shall have the power to serve warrants in criminal cases within this Commonwealth: Provided, That this act shall not apply to county detective or detectives appointed by the Governor of this Commonwealth.[10]

Governor William A. Stone, in approving this amendment to Section 3 of the Act of 1887, appended the following observations:

The third section of this act provides that nothing in this act shall apply to agents or employes of said business detectives or detective agencies employed temporarily in the conduct of their business.

The bill before me strikes out this proviso of the act of 1887, so that if the act of 1887 applies to agents or employes of said business detectives or detective agencies employed temporarily, men who are so employed would have to take out licenses. A careful reading of the first section of the act of 1887 convinces me that it does not apply to agents or employes of business detectives or detective agencies employed temporarily in the conduct of that business, unless the person so employed is, in the language of the first section, engaged in the business of a detective. A man temporarily employed by a business detective or detective agency is not necessarily engaged in the business of a detective for hire or reward. Unless that is his business and he holds himself out as following that business, advertises his business to be that of a detective or advertises that he is conducting a detective agency, I do not think the act of 1887 would apply to him. I can very well see how it may become necessary, in the due administration of justice and in the suppression of crime, for detectives having charge of a case to employ different people to perform certain specific services in the investigation of a case. That these men are so employed for certain specific work does not, in my judgment, bring them within the provisions of the act of 1887. I realize that unscrupulous persons who are frequently employed by detective agencies, and who make it a business to engage in that work, should be subject to proper legal supervision. This amendment will probably result in better protection to the public without interfering with the ends of justice.[11]

The penalty for posing as a detective is provided by the Act of May 5, 1897, which is also incorporated in the present private detective law, thus becoming Section 4:

That on and after the passage of this act, every person within the Commonwealth of Pennsylvania who falsely represents himself to be, or who falsely assumes to act as a detective or any elective or appointive officer of the Commonwealth of Pennsylvania, or of any county, municipality, city, borough, township, district or ward within the Commonwealth of Pennsylvania, shall be guilty of a misdemeanor, and upon conviction thereof shall be sentenced to pay a fine not exceeding five hundred

[10] Laws of Penna., 1901, No. 218, p. 355. [11] *Ibid.*, pp. 355–356.

dollars, or suffer imprisonment not exceeding two years, or both, or either, at the discretion of the court.[12]

It is difficult to see just how "better protection," as suggested by Governor Stone, could be given the public by such an amendment. The Wisconsin detective law of 1925 provided for "the registration and licensing with the Secretary of State of Wisconsin of all agencies and persons doing private detective, private police and private guard work." The term "private detective shall include persons known as inside shop operatives." If the applicant is the owner of the business, a fee of $200 is required and a bond of $10,000; if the applicant is an agent, a fee of $2.00 and a bond of $200 are required before a license shall be granted. The good character, integrity, and competency of both types of applicants must be fully attested.[13]

It is obvious that attempts to license all employees of detective agencies would be vigorously opposed by the agencies. Since private detectives "sell their services," they view this type of legislation as an unwarranted extension of the State into private business. But when it is remembered that nearly all so-called detective agencies operate at the borderline of legality and honesty, such an extension of the police power of the State for the purpose of regulating such agencies is necessary for the safety, security, and welfare of the community.

On the other hand, the requirement that all operatives be listed reduces the value of the information and service. Particularly is this true in the industrial field. Even among non-detective store services, and in criminal investigations by private detectives, the success or the failure of the investigation depends largely upon the anonymity of the operative. This explains the promise of the Pinkertons to McParlan that he would not have to take the stand as a witness against the Molly Maguires. An operative uncovered becomes worthless for further investigatory work in that particular locality.

The most powerful argument in favor of requiring licenses of all persons *who are engaged in the detective business for hire or reward,* whether principal or agent, is that it eliminates the undesirable, incompetent, fly-by-night detectives who have been

[12] Laws of Penna., 1897, No. 32, p. 39. See also Pepper and Lewis's Digest of the Laws of Pennsylvania, 2nd ed., 1700–1907, vol. 2, pp. 2901–2905, for annotation of sections, wherein criteria of granting a license are reviewed as decided in several decisions.

[13] Scherr, August J., "Results of the 1925 Law Regulating Private Detective Agencies in Wisconsin," University of Wisconsin, Summer Session, 1926 (MS.). See also *American Federationist,* 32: 1189–1192, Dec. 1925.

chiefly responsible for the low estimation in which the public and the police hold present-day agencies. Regardless of what police executives may say, the rank and file of municipal police despise private detectives and will not coöperate with them. Judge Patterson of Philadelphia is quoted as saying: "Members of the bar must understand that they are to have no arrangements with private detectives."[14]

William J. Burns, formerly head of the Bureau of Investigation, United States Department of Justice, and thoroughly competent to comment on the character of private detectives, claimed that "private detective agencies are too frequently used for harboring crooks and professional blackmailers."[15]

If operatives were required by law to be licensed, it is likely that private detective agencies would enjoy the confidence which undoubtedly many of them deserve, regardless of the strictures of organized labor, liberal journals, and moralists. It is highly improbable that all private detectives are crooked. Many agencies, however, use highly questionable methods, employ highly questionable operatives, and "discover" highly questionable evidence, so that *to succeed* as private detectives they must forswear ethical conduct.

Efforts have been made in Pennsylvania to secure legislation similar to that passed in Wisconsin, but to date without success. An act drawn and proposed before the Pennsylvania State Legislature by the American Federation of Full Fashioned Hosiery Workers, in 1929, followed the Wisconsin law in its essential provisions.[16] This proposed law was rejected by the Pennsylvania Legislature.

Procedure of granting licenses

The procedure followed in Philadelphia under the private detective law of Pennsylvania at the present time may be described as follows: [17] A standard sized paper is handed the applicant, which is headed "Licenses of Detectives." Below such heading is printed:

The petitioner shall state in his petition:

1. Whether he has ever been indicted or convicted of any crime.
2. Whether he has ever been in the employment of the United States,

[14] *Public Ledger* (Philadelphia), Oct. 21, 1915, p. 5.

[15] Burns, William J., *The Masked War*, London: Hodder and Stoughton, 1913, p. 326.

[16] Mimeographed copy furnished by John W. Edelman, Director of Research.

[17] The procedure is the same in all counties in Pennsylvania. Philadelphia County is used because forms were secured there.

the State of Pennsylvania, the City of Philadelphia, or any other State or City, and if he was, whether he was discharged therefrom, and if so, for what cause.

3. What has been the petitioner's employment and residence for five years prior to his application.

4. If he has been previously licensed as a detective, he shall state the fact, and further give a list of all the assistants who have been employed by him in the conduct of his business under previous licenses.

The petitioner shall agree in his petition that no one shall be associated with him, by advertisement or otherwise, in the business to be conducted under the license, and that he will not employ in any manner in his business any person who, having been licensed as a detective, had his license revoked.

The petition shall be verified by affidavit of the truth of the matters set forth therein, and that a copy thereof has been served upon the Director of Public Safety two weeks before the time set for hearing the petition; and in no case will a license be granted until the necessity therefor shall be shown to the Court.

The following, with deletions to destroy identity, is a copy of a petition presented in 1929 by a private detective before the Court of Quarter Sessions in Philadelphia, for renewal of his license:

IN THE COURT OF QUARTER SESSIONS FOR THE
CITY AND COUNTY OF PHILADELPHIA

To the Honorable the Judges of the Said Court:

The petition of .....
Respectfully represents:

That he is a citizen of the United States and of the State of Pennsylvania, and resides in the City of Philadelphia, and that he is desirous of getting a license as a Private Detective.

Your petitioner states that he has never been indicted or convicted of any crime.

That he never held any position under the United States, the State of Pennsylvania or the City of Philadelphia, or any other State or City.

That for the last seventeen years he has been a resident of the City of Philadelphia, but .... he has been temporarily residing in ..... County, but that he has always been and still considers that he is a citizen and resident of the City of Philadelphia, and maintains an office at .... Street, Philadelphia. He is employed in the capacity of operator for detective agencies and corporations.

That he has been formerly employed as a special officer for the .... Railroad Company for fifteen years. At the present time he is employed by the .....

That he was licensed as a Private Detective ..... 1905 and at the expiration of that license he was again reappointed ..... 1908, and at the expiration of said license he was again appointed on .... 1911 and at the expiration of the latter commission he was

again commissioned on ..... 1914 and at the expiration of the latter commission he was again commissioned on ..... 1917. At the expiration of that license he was reappointed ..... 1920. At the expiration of that license he was reappointed ..... 1923 and at the expiration of this time he was reappointed ..... 1926, and his commission expires on ..... 1929.

Your petitioner agrees that in the event of his reappointment he will not employ any one under him who has had his license revoked.

[signed] .....

Philadelphia County, *ss.*

..... being duly sworn according to law deposes and says that the facts set forth in the foregoing petition are just and true to the best of his knowledge, information and belief.

Sworn and subscribed to before me this ..... day of May, A.D. 1929

If the petition is for a license or a renewal, investigation must be undertaken by the Detective Division of the Philadelphia Police Department, but it is obvious that in the case of the above petition the investigation would be perfunctory if performed at all. When the original application is properly filled out and indorsed by an indeterminate number of persons, "ten or a dozen," and the statements are verified by the city police, the applicant petitions the Court of Quarter Sessions for a license. Hearings on license petitions are held every Friday in the Miscellaneous Court of Quarter Sessions, and if no objection is offered by the Bureau of Public Safety and if no person enters an objection, the license is usually granted.

The logic of such granting of the license appears to be that if a valid objection existed it would be found by the police in their investigation before the final hearing. Any one may apply and be licensed if the petition is in the proper form and contains "ten or a dozen signatures." The last statement was made by the Clerk of the Court of Quarter Sessions, in whose charge licenses are recorded. It is not strictly accurate, as the following decisions will indicate. The question of a proper criterion has exercised the licensing courts considerably, and there appears to be no fixed criterion or consistent principle followed by the judges of the courts of quarter sessions.

Legal aspects of issuance of licenses

Generally speaking, the licensing courts have exercised independent discretion in interpreting the meaning of the Act of 1887. In Shelley's Petition [18] the Dauphin County (Harrisburg)

[18] 1 Pa. D. & C. Repts. 553.

Court of Quarter Sessions, through Judge Fox, on December 5, 1921, held that the act was permissive and not mandatory. If no necessity exists for the granting of the license, the petition may be denied. The Court continued:

> It is quite possible that if a license were granted to each and every applicant complying with the requirements of the act, to say the least, a community might be so overrun with detectives that they may become meddlesome and vexatious.

It is clear that *necessity* was the deciding criterion in this decision.

In the case of Dickerson's Petition [19] the qualifications and the necessity for appointment were both declared to be within the discretion of the court. In Richey's Petition [20] necessity was the test, while in Fierro's Application [21] the courts held that failure to show competency and experience would result in refusal of the application.

> A mere petition signed by the applicant and twelve other persons, certifying that they are satisfied as to the competency and integrity of the petitioner, is not sufficient, but the court must be satisfied that there is some emergency requiring the appointment (Burnett's Application).[22]

In Smith's Petition the court held that meeting the requirements of the law was the important criterion.[23]

The courts have likewise held that there is no provision in the Pennsylvania statute permitting re-licensing without inquiry. Renewal of license is in law a new license, hence necessity for appointment must be judicially determined and proof of competency and integrity established.[24]

Revocation of licenses

What constitutes legal cause for revocation and refusal to grant renewal of a license, has also been decided by the courts. In Bauer's Application, President Judge Sulzberger, on November 27, 1915, in the Philadelphia County Court of Quarter Sessions, declared that a private detective licensed under the Act of May 23, 1887, who has been guilty of alluring, or attempting to allure, an innocent person to commit crime in order to procure evidence for his client, will not be granted a renewal of license. Further, where a private detective, employed by a husband to procure evidence against his wife for the purpose of securing a divorce, sends

[19] 5 Lack. Jur. 292. [20] 13 Pa. Dist. Repts. 400. [21] 12 Luz. L. Reg. 278.

[22] Pepper and Lewis's Digest of the Laws of Pennsylvania, 1700–1907, p. 2904. See also 14 Cyc. 234, 235.

[23] 5 Pa. Dist. Repts. 465. [24] 5 Pa. Dist. Repts. 465, 467.

a female employee into the husband's house to become a boarder for the purpose of inducing the wife to become drunk and then taking her to a house of doubtful reputation where witnesses promptly appear, petition for renewal of license should be refused.[25]

On September 25, 1916, Judge Rogers, of Philadelphia County Court of Quarter Sessions, granted the prayer of a wife requesting the revocation of the detective license of one Cameron, on the ground that Cameron did not possess "competency and integrity" within the meaning of the Act of May 23, 1887. It appeared that Cameron, a private detective, in collusion with her husband, took the wife to Ambler, Pennsylvania, and refused to bring her back to Philadelphia. They stayed at an Ambler hotel, and Cameron notified the husband, who was waiting for word in Philadelphia. The husband appeared in Ambler at one o'clock in the morning, and at five o'clock the husband procured a ladder, looked into his wife's room, and saw her with another man. The court revoked Cameron's license.[26]

The jurisdiction of the court of quarter sessions to revoke a detective license may be exercised at all times for cause shown. After declaring that "a detective has no more authority to arrest a person on view than any private citizen has," Judge Wiltbank in 1908, in the Philadelphia County Court of Quarter Sessions, revoked the license of one Miller, who had been employed by the United States Government to apprehend deserters and had delegated his authority to a number of employees, including one woman who lured men to her house, chained them, charged them with being deserters or stragglers from the United States Army or Navy, and levied blackmail on them.[27]

Detectives as witnesses

The legal status of detectives as witnesses in cases in which they procure evidence to be used against the accused has been defined by the courts. In the case of *Klair* v. *Klair* in a suit for divorce in the Dauphin County Court of Common Pleas, Judge Wickersham, on January 2, 1923, decided that

> we would never establish the precedent in this county of granting a divorce upon . . . the testimony of hired detectives, unless that testimony appeared to be reasonable and in all respects met the requirements which we have above indicated. . . . The evidence of detectives in cases of this sort is to be scrutinized with great care. A detective is a competent wit-

[25] 24 Pa. Dist. Repts. 1068. [26] 25 Pa. Dist. Repts. 917.
[27] 17 Pa. Dist. Repts. 259.

ness and his testimony must be considered and cannot be dismissed altogether as unworthy of consideration because of the nature of his business.[28]

In 1910, President Judge Rice, rendering the opinion of the court, held that

> there are many cases wherein the courts, while in some instances condemning the methods employed by the detectives, have sustained the convictions, although the particular crime charged would not have been committed had it not been for the deceptions or subterfuges or the suppression of the truth resorted to by the detective.[29]

In the case of *Campbell* v. *The Commonwealth,* involving McParlan's testimony against the Molly Maguires, the Pennsylvania Supreme Court held that

> a detective who joins a criminal organization for the purpose of exposing it, and bringing criminals to punishment, and honestly carries out that design, is not an accessory before the fact, although he may have encouraged and counseled parties who were about to commit crime, if in so doing he intended that they should be discovered and punished, and his testimony, therefore, is not to be treated as that of an infamous witness.

It was held that it was purely a matter for the jury to decide whether or not he in fact acted as a detective throughout and intended to bring the criminals to punishment; if so, his testimony was to be accepted at the same value as that of any other witness.[30]

A similar view was expressed by the Pennsylvania Superior Court in 1910, in the case of *The Commonwealth* v. *Wasson, Appellant,* wherein detectives in the employ of the Voters' League of Pittsburgh procured evidence of corruption of members of the city council, the members to receive money in exchange for votes favoring a certain wood paving company, which, unknown to them, had no existence. The detectives made the bargain in one room while other detectives watched the proceedings through hotel doors pierced by gimlet holes. The court held that when

> detectives enter into a combination with conspirators in order to discover, arrest and punish the conspirators, and they continue to act in such capacity in good faith until the conspirators are arrested, the testimony of the detectives is not to be considered as the testimony of co-conspirators.[31]

In other words, if a detective is treacherous and betrays in good faith, his testimony is competent and credible and is to be regarded as of the same value as that of any other witness. We may be pardoned for remarking that such legal doctrine sounds very strange.

[28] 3 Pa. D. & C. Repts. 429, 425.
[29] 42 Pa. Sup. Ct. 38.
[30] 84 Pa. St. Repts. 187.
[31] 42 Pa. Sup. Ct. 38.

However, in *Carroll et al.* v. *The Commonwealth,* the counsel for the Commonwealth, George R. Kaercher, District Attorney, speaking in re McParlan, said:

> An accomplice is a competent witness. It is the province of the court to determine the competency of the witness; it is for the jury to determine upon the credibility of the witness. The rule, in regard to the testimony of an accomplice, does not extend further than to require of the judge to *advise* the jury not to convict on the uncorroborated testimony of an accomplice.

To this, Chief Justice Agnew, on May 7, 1877, speaking for the court, said: "Standing alone . . . even McParlan's [testimony], without confirmation, would be weak and perhaps unconvincing." Circumstances and evidence adduced by the Commonwealth would strengthen and fortify such testimony.[32]

From the above opinions there appears little that is clear-cut and definite. The distinction between the detective in good faith who joins in criminal action to secure evidence, and the detective who in reality is an *agent provocateur,* for whatever reason, can hardly be determined by a group of judges whose information must be second-hand. Yet the distinction is important, since persons apparently may be, and have been, hanged by the court's decision as to whether or not the detective was a traitor in good faith.

Summary

We may summarize the important legal requirements and limitations imposed upon private detectives by the decisions of the courts. First, they have no police power other than that possessed by the private citizen, unless "lawfully authorized" to perform police functions.[33] Second, necessity, or the existence of an emergency,[34] is as important a criterion of appointment as fulfillment of legal requirements or satisfactory evidence of compe-

[32] 84 Pa. St. Repts. 107.

[33] 14 Cyc. 234, 235. The following are cited in support; 102 Mo. 356; 14 S. W. 865; 10 L. R. A. 717; 5 Pa. Dist. 465, 467; 17 Pa. Co. Ct. 394; 14 Pa. Co. Ct. 273. See also 3 Cyc. 878, n. 5, also cited 35 Fed. 116. Private detectives are "entitled to the same fees as a constable" where the detective undertakes to execute a warrant of arrest and commitment issued to him by a justice of the peace in the case of felonious assault with intent to kill and murder. However, "the county cannot be held liable for costs where a detective has made an information and served warrants, but defendants have been discharged." Pepper & Lewis's Digest of the Laws of Pennsylvania, p. 2904 (8 Pa. C. C. 347; 7 Lanc. L. Rev. 264 [1890]). See also 18 C. J. 981.

[34] 18 C. J. 980, which cites 22 Pa. Dist. 502 as authority; also 41 Pa. Co. 252; 30 Pa. Co. 530; and others.

tency and integrity. Third, licenses may be revoked for any cause whatsoever which is adjudged sufficient by the licensing court. Fourth, private detectives are not legally entitled to compensation from the State or the city, but must look to the employer for whom services are rendered, the amount being a matter to be determined between the detective and the client, exactly as in any other civil contractual relation. Fifth, the testimony of a private detective who secures evidence of crime, by whatever means, is to be regarded by the court or the jury as of the same value as that of the ordinary witness. On this last point courts are not so emphatic, and apparently judges do not themselves believe such doctrine.[35]

[35] See editorial comment on such evidence in the *New York Herald-Tribune*, Dec. 21, 1932, p. 14, wherein Justice Roberts is quoted on roughly comparable techniques in prohibition cases.

There are two important organizations which retain private detectives continuously as investigatory agents. The first is the American Bankers' Association, which retains the William J. Burns International Detective Agency, and the other is the Jewelers' Security Alliance, which retains Pinkerton's National Detective Agency.

The American Bankers' Association and private detectives

There are approximately 25,000 member banks in the American Bankers' Association in the United States. At the present time the Burns agency is under contract to investigate for the Protective Department of the Association all losses which the Department recognizes as a legitimate part of its functions. Inasmuch as the manager of the Protective Department has on more than one occasion emphatically declined to make data available, only published material can be presented.

This much may be said with certainty: the service rendered by the Burns agency to the banks is largely, if not wholly, an *ex post facto* service; that is, the agency does not actually come into action until notified by the member bank that an offense has been committed against it.

The following rules to govern the Protective Department were set forth in 1910:

1. Upon receipt of notification by the Protective Committee, Hanover Bank Building, New York, N. Y., of an attempted or successful perpetration of fraud upon a member of the Association, either by forgery, check-raising, robbery, or safe-breaking, which appears to be the work of professional criminals, accompanied by a full account of the offense, and, if possible, a description of the operators, the Committee will, if the case come within the category of those of which the Association can take cognizance, at once undertake the apprehension of the criminals by means of detectives and such other means as they may consider warranted. A case once committed to the Association, which results in the apprehension of the criminal, cannot be taken out of its hands, nor the offense condoned or compromised.

2. The Association cannot take cognizance of petty larcenies or thefts by employees.

The Protective Committee can spend no money, undertake no detective work, employ no lawyers and pay no fees of any kind in cases of local

swindles, or frauds or confidence tricks. The vigilance, alertness and energy of the officers of the banks must be relied upon in such cases.

3. The Association cannot be held responsible for any expense incurred for protective work which has not been previously authorized by the Protective Committee.

4. The Committee cannot undertake action on any case unless immediate notice of crime has been given to the Secretary or such notice sent to the nearest Pinkerton office.

5. The Committee will not take cognizance of cases where other than members are defrauded. If customers of members cash checks for unidentified strangers, and same turn out to be forged or raised, they must pursue the criminal through the police, sheriff, or other county authorities or some detective agency at their own expense.[1]

The burglary losses suffered by member banks from 1895 to 1909, as reported by the Protective Department, are presented below:

That bank criminals do respect the membership sign is, we consider, wonderfully verified by the following figures of burglaries on banks:

BURGLARIES ON BANKS, INCLUDING ATTEMPTS, 1895 TO 1909, INCLUSIVE

	1062 banks, non-members, lost	$1,468,879.47
	194 banks, members, lost	147,065.23
Difference,	868 banks	$1,321,814.24[2]

Arrest statistics, classifying the nature of the offense, the disposition of the case, and the sentence, from December 1894 to September 1909, follow:[3]

	Arrested	Convicted	Years	Months	Indeterminate Terms	Died or Exec.	Life	Escaped	Recaptured	Released	Awaiting Trial
Forgers	631	537	1,327	4	122	1	0	9	3	59	29
Burglars	272	244	1,600	11	30	8	3	5	2	20	5
Sneak Thieves	16	11	56	9	0	0	0	2	0	2	1
Holdup Robbers	24	18	60	0	7	1	0	1	0	2	3
Robbers	8	3	23	0	0	0	0	0	0	1	4
Totals	951	813	3,066	24	159	10	3	17	5	84	42
			3,068 years								

[1] *Proceedings of the Thirty-fifth Annual Convention of the American Bankers' Association*, p. 216. [2] *Ibid.*, p. 218. [3] *Ibid.*

The following table is presented as indicative of the growth of the Association and the increasing cost for detective service:[4]

The expenses of the Committee and the practical results of their work since 1901 are as follows:

Fiscal Year ending	Paid Members	Cost per Member	Total Expenses	Special Arrests	General Arrests	Total Arrests	Total Convictions
1901...	5,392	$5.56	$29,973.20	59	51	110	99
1902...	6,204	5.28	32,781.11	78	60	138	125
1903...	6,943	5.93	41,145.61	59	86	145	122
1904...	7,563	4.53	34,282.44	78	48	126	82
1905...	7,677	4.06	31,203.61	51	116	167	85
1906...	8,383	3.71	31,057.76	70	109	179	115
1907...	9,251	3.98	36,847.40	48	49	97	75
1908...	9,803	3.93	38,522.54	57	77	134	74
1909...	10,682	4.14	44,286.52	85	77	162	107

[793 member banks in Pennsylvania according to this report.]

The above statistical data are presented for the reason that in 1909 Pinkerton's National Detective Agency was replaced by the Burns and Sheridan National Detective Agency. Below are reproduced long excerpts to indicate the reasons for the change:

The Pinkerton Agency, fifteen years ago, first took up the work of running down burglars and forgers on behalf of the Association. It continued that work down to and including the 22d of November, 1909, when the agency was terminated and a new agency employed, now known as the Burns and Sheridan National Detective Agency, eminently competent and fully equipped to handle the work. The negotiations with the Pinkertons regarding a continuance of their work had been going on for several months before their final termination. It was felt by the Standing Protective Committee that, with the large and constantly increasing membership, the retainer fee of three dollars per member was excessive and should be reduced, at all events as to the excess over a stated number of members. Furthermore, the service was faulty in many respects. . . . The original offer in the spring of 1909 of the Pinkertons was to renew the contract for one year on the same terms; later a three-year contract was insisted on by the Pinkertons, and the Executive Council at Chicago authorized the executive officers to make a contract for three years. Later in the same month, when the terms of this contract came up for settlement, representatives of the Pinkerton Agency insisted

[4] *Proceedings of the Thirty-fifth Annual Convention of the American Bankers' Association*, p. 215.

upon five years or nothing as the term of the new contract to be entered into. The matter ultimately came to a head on November 22d, when the Pinkertons were definitely notified that there was no authority to execute a five-year contract, and they immediately broke off work. . . . The motive of the Pinkerton Agency in insisting upon a five-year contract or nothing, a much longer period than had ever before been contracted for, can only be surmised, but it is reasonable to infer that, realizing that the expert supervision under which they were placed was making more and more clear the extent of their inefficiency to properly handle the Association's work, and feeling that, probably in a year's time, a more effective agency to handle this work would be evolved and perfected, they determined to insist upon binding the Association to their agency for a long period of years and to peremptorily require a prompt acquiescence, mistakenly believing that under existing conditions the Association necessarily depended on them alone for its protection and would be forced to come to their terms. In this they were mistaken. . . .

It has now developed, however, that the Pinkerton Agency, not content to abide by the stand which they had taken and smarting under the knowledge that the Association's protective work is now being handled much more effectively than formerly, have by circular and pamphlet, sent broadcast to the members of the Association, sought to undermine the confidence of such members in the protective feature of the Association's work and to predict all sorts of dire consequences which will result from the termination of their employment. . . . When the change was made the Pinkertons announced broadcast through the press that there would be a big increase in crime owing to the fact that their protection had been withdrawn. As a matter of fact, just the reverse has proved to be the case. . . . What has actually been done has been to make a direct appeal to every member of this Association to employ their agency under a scale of dues almost identical with that of the American Bankers' Association.[5]

A more intimate view is gained from the following report:

Mr. Allan Pinkerton met the Executive Officers on November 22nd, and was advised that the officers had no authority to make a contract for a longer period than three years. His response was:

"Is this your final decision, gentlemen?" The reply given him was:

"Yes"; with emphasis he then said:

"All right, our work for your Association stops right now," and started to leave the room, when one of the officers remarked:

"Mr. Pinkerton, I am somewhat older than you are, and perhaps know a little less, but your reply would carry to the average man the belief that you thought you were the only parties who could do this business," to which Mr. Pinkerton replied:

"You can put any interpretation on it you please," and abruptly left the room.[6]

[5] *Journal of the American Bankers' Association*, 2: 367–368, March 1910.

[6] *Ibid.*, 3: 78, Aug. 1910.

The retainer fee per member paid the detective agent, and the total cost, 1894 to 1910, may be found in the following:

REPORT OF THE STANDING PROTECTIVE COMMITTEE

New York, September 1, 1910.

To the Executive Council, American Bankers' Association:

GENTLEMEN: Your Standing Protective Committee submits herewith its annual report for the fiscal year ending August 31, 1910.

The past year has been an eventful one for the Protective Department of the Association, in view of the necessity for changing our detective agents to the Burns & Sheridan National Detective Agency, which change, we are glad to report, thus far indicates a decided advantage in the prosecution of our work.

In 1900 the Association was paying the Pinkerton Agency for services as a retainer, on a basis of 4,326 members, as per contract, as follows:

1,500 members at	$3.00
250 members at	2.50
250 members at	2.00
2,326 members at	1.50

an average of $2.10 per member.

When our membership was 6,500 we were paying a retainer fee of $3.00 per member to our former detective agency (the Pinkertons). . . .

The Protective Department was established in 1894. The expenditure for this work has aggregated a half-million dollars, of which about $450,000 was paid the Pinkerton Agency.[7]

On August 2, 1909, the Protective Committee became the "Protective Detective Department," under Manager L. W. Gammon, whose first report is presented below to indicate the changes introduced, as well as, by implication, to show their necessity:

At the beginning of the fiscal year, September 1, 1909, a new system of filing was inaugurated, whereby each case reported to the Department received a separate jacket with the proper notation thereon, showing the name of the bank reporting same, and the nature of the case. In this way it lessened the chances of reports being misplaced, and facilitated the handling of same and in keeping track of the progress made in each case; not to mention the amount of time saved. The various cases are filed alphabetically by States, cities and towns in the States, and banks in the cities and towns. . . .

Under our former detective agents this Association did not receive the photographs of criminals with the exception of those contained in the bulletins which they issued quarterly to our members. Since our present detective agents have taken up the work this Association has received photographs of all criminals who have operated and are likely to operate

[7] *Proceedings of the Thirty-sixth Annual Convention of the American Bankers' Association,* pp. 105, 108.

against our members, with a result that we now have 1,197 photographs in our gallery, none of which are "dead ones." This gallery will hold approximately 6,000 photographs. Additional photographs are being received daily which are of great value. A complete record is kept of each photograph by having a numbered card corresponding to the number of the photograph, as well as a criminal card giving the description and complete history of each criminal. In addition, a complete card record is kept of the operations of all persons reported by our members, irrespective of whether a member has been operated on, or a depositor or individual. In that way a record is kept and we can determine that although a person may be responsible for a depredation on a member of this Association, the evidence is not sufficient to secure a conviction for that particular crime, we have our detective agents try and arrange for his surrender to other authorities in connection with some other crime. . . .

There are two points that I especially desire to call your attention to:

First.—As to the so-called "Yegg" burglars, which our former detective agents predicted would commence their operations when they learned that the Pinkerton Agency were no longer the detective agents of the American Bankers' Association.

Second.—The prediction that the rates for burglary insurance would be increased.

These predictions have not come true, and it can be readily seen that predictions of this nature are only problematical, and to say the least, dangerous. . . .

In the matter of arrests, I wish to state that they were made in connection with operations against members of this Association. Formerly the number of arrests included all those made in connection with investigations made for the various State Bankers' Associations, Surety Companies, etc. While the report as formerly submitted was misleading, inasmuch as a large number of arrests were reported and carried on the records when, as a matter of fact, they had nothing whatever to do with this Association, as a number of these arrests were on account of operations where our members were not interested. They were carried under the title of "General"; very few of our members understood the distinction between the titles of "Special" and "General." Our present detective agents, in making their annual report, only report the cases where our members are interested, and do not include private cases that they have investigated.

For some time back the Protective Committee did take up amateur cases where the persons implicated were apt to become professional. In the past year we have devoted a great deal of time and expense to investigations of amateur cases. Of course this broad view taken by the Protective Committee is meeting with the approval of our members. Heretofore the amateur cases were not investigated by the Association, and if one was made the expense had to be borne by the bank member interested; this year no member has been called upon to pay for any investigation of a case they reported to this Department where they had the necessary warrant sworn out and agreed to prosecute the culprit should he be apprehended. . . .

The Protective Department is connected with the Burns & Sheridan National Detective Agency, Inc., by private telephone, thereby avoiding delays in transmitting messages and insuring secrecy from the public.[8]

At the present time it is impossible to secure accurate and reliable information with reference to methods and costs, but there is available some material as to the losses sustained by banking institutions during the past ten-year period, through burglaries and robberies. The following table is taken from the *Report on the Cost of Crime:*[9]

Year [a]	Burglaries		Robberies		Total loss
	Number	Loss	Number	Loss	
1921	220	$287,745	136	$936,752	$1,224,497
1922	261	249,301	145	905,669	1,154,970
1923	150	176,638	129	459,693	636,331
1924	104	264,528	236	1,074,456	1,338,984
1925	98	244,966	225	1,676,204	1,921,170
1926	54	248,869	203	1,345,235	1,594,104
1927	92	185,560	227	2,010,767	2,196,327
1928	70	156,999	292	1,762,703	1,919,702
1929	52	134,960	327	1,538,616	1,673,576
1930	40	102,694	402	2,003,391	2,106,085
Average	114	$205,226	232	$1,371,349	$1,576,575

[a] In each case the figures are for the 12-month period beginning on Sept. 1 of the previous calendar year.

The interesting facts to be found in this table are the decline in burglary losses and the numerical increase as well as loss increase from bank robberies. Undoubtedly alarm devices, together with constantly improving types of protection, account for most of the decrease in burglaries, whereas the ease with which banks can be held up and robbers can escape in automobiles accounts in large part for the increase in bank robberies.

No figures are available as to the number of offenders apprehended and convicted by the Burns agency in connection with offenses against banks, but one would err on the side of conservatism by estimating that a very small percentage of such offenders are arrested and convicted.

[8] *Proceedings of the Thirty-sixth Annual Convention of the American Bankers' Association,* pp. 112–115.

[9] National Commission on Law Observance and Enforcement, p. 385.

It appears to be the policy of banks to employ persons, even in positions of responsibility, without too much scrutiny of their character qualifications, and to depend upon insurance and bonding companies to make good the losses suffered. Three years ago it was learned that a quarter of a million dollars had been appropriated to trace and prosecute offenders during 1930, this amount being necessary largely because member banks do not have sufficiently stringent requirements in their personnel selection.

As it was explained, the bank pays its premium and, when a loss occurs, turns to the bonding company, which meets its contractual responsibility, and there the matter ends unless there is a strong possibility that a part of the stolen money can be salvaged. For a bank to prosecute after being paid by the bonding company, would mean that costs of apprehension and prosecution were a net loss to the bank. The bonding company insists it is not a prosecuting concern, and has met its obligations, while the District Attorney's office has no money to send detectives across the country to locate and return bank offenders.

Prevention of offenses against banks consists largely in burglar alarms and the use of cards displayed in windows announcing that the bank is "protected" by the detective agency. This is what is known as a "psychological service." It does not mean that a private detective patrols the area around the bank. In attempting to learn exactly what such warning cards meant in terms of real prevention, the manager of the Philadelphia office of the Burns agency cryptically replied: "That's what the thieves would like to know." The Burns agency does not restrict its card operations to banks, but one may see them on stores, residences, garages, and even private schools. It is the opinion of this writer that actually these cards mean nothing, but do have the effect of preventing some attempts against such places. A former division manager of Pinkerton's National Detective Agency in Philadelphia told the writer a year ago that his agency could do millions of dollars' worth of business if it went into the card business. Local patrolmen of the municipal police regard card protection as a racket.

Of course, the store owner or the householder pays a specified amount for these display cards. If a break is made, the agency issuing the card will meet its obligations and attempt to discover the offender. It is far more likely that the public police will do the actual arresting, if not the investigatory work as well. Thus, agency cards simply mean that the prestige of the agency is supposed to deter offenders and make plain the fact that an offense against such a "protected" establishment will result in investi-

gation by the agency. It is easy to see the power for deterrence inherent in such cards when the agency of issue is "The Federal Detective Service," or "The U. S. Secret Service, Inc." The use of "Federal" and "U. S." in capital letters and "Inc." in small letters, is one way in which prestige can be elevated.[10]

The years 1921 and 1924 were reported as "the peak years" in crimes of violence against banks, while slight reductions in 1922, 1923, and 1925 were reported. In 1926 "crimes of violence against member banks . . : were cut almost in half, there being but 29 burglaries and 112 daylight robberies, a total of 141 attacks as compared with the 263 cases reported in 1921."[11] In this semi-annual report Mr. Baum stated that "our detective agents caused the arrest of 147 of the 211 bank criminals apprehended, 72 of these having been convicted and imprisoned. In addition there were 53 convictions of prisoners who were arrested prior to September 1st, 1926."[12]

The most distressing feature which any analysis of bank crimes must uncover is the fact that more than two thirds of the amount taken directly from the fraternity by criminals is doled out in crimes which are preventable with reasonable care. These are embezzlements and forgeries. The experience of underwriters and the records of the Protective department leave no doubt that the *direct* loss which crime inflicts upon banking averages more than $12,000,000 annually. Of this yearly burden the embezzler accounts for about $7,000,000 and the forger takes another million, virtually all of these contributions growing out of crimes of opportunity which are controllable within the banks. Contrary to the popular notion, the amount taken by the most serious menace to bankers, the holdup bandit, is less than $2,000,000 annually, or only one sixth of the yearly crime bill against banking. Direct losses from burglary have dropped until they now average but 3 per cent of the total or about $400,000 annually, and the balance is divided among credit sharps, sneak thieves and swindlers.[13]

Types of cases in which the Association apparently is not interested are set forth in the pamphlet literature:

Under the general heading of "Contributory Negligence" the Protective Committee rules against the investigation of losses suffered in the following manner:

(1) Advancing funds to strangers without reliable proof of identity.
(2) Honoring checks signed with a name in which no account is carried.

[10] Mandeville, Ernest W., "Counterfeiting Uncle Sam's Agents," *The Outlook*, 144: 209–211, Oct. 13, 1926.

[11] *Report of the Protective Committee*, by James E. Baum, Deputy Manager, American Bankers' Association. Hot Springs, Arkansas, May 4, 1927 (pamphlet), p. 3. [12] *Ibid.*, p. 4. [13] *Ibid.*, p. 7.

(3) Honoring checks signed with a name in which an account is carried, but where it is apparent that no attempt has been made to imitate the original signature, or where the forgery is so poorly executed as to be easily detected.

(4) Making a loan, taking as security a mortgage on unknown property, real or chattel, or on property the ownership of which is recorded in another's name.

(5) Cashing a raised or altered check on which the alteration is plainly visible.

(6) Honoring a genuine check bearing a forged indorsement without proving the identity or title of the presenter.

The policy of the American Bankers' Association is "prevention" rather than "apprehension," and to that end the following general rules have been laid down by the Protective Department:

(1) Don't jeopardize the lives of your employees by allowing the working force to be undermanned. Closing the bank during luncheon period is safer than leaving it unprotected by a few defenseless employees.

(2) Don't invite financial loss and serious injury of your messengers by sending them on unnecessary errands of accommodation, or by subjecting them to other risks without adequate guards.

(3) Don't carry excessive cash at the tellers' windows. Securities and other valuables or cash in excess of the tellers' minimum needs should be locked in a safe within the vault. During banking hours the vault door should be kept locked whenever practicable and when not closed the bolts should be thrown and "locked open."

(4) Don't cash checks for strangers without reliable proof of their identity and title. To avoid questioning, crooks often forge customers' signatures as indorsements. When presented by strangers such indorsements should be verified direct.

(5) Don't use ordinary rubber stamps for certifications. Crooks buy them for a dollar.

(6) Don't accept ALL cashier's checks or certified checks as cash. Professional forgers duplicate them with little difficulty.

(7) Don't be misled by the commanding words "Currency," "Cash," or "Bearer" on the payee line. When presented by strangers, such checks should be carefully scrutinized, maker's signature compared and amount of balance ascertained. Some forgers specialize in the use of such checks, confident that they will be paid on demand and no questions asked.

(8) Don't present check books to new customers without satisfactory references or before credit has been verified. A check book in the hands of a crook causes many losses and much annoyance.

(9) Don't fail to give effect to the preventive measures outlined in the warnings published in the Protective Supplement of our Journal and the special warning circulars issued periodically.

Strangers are not always crooks,
but crooks are usually strangers!

The following excerpt from a pamphlet issued to member banks enumerates the types of cases which are investigated by the Association's detective agents:

> The Association, through its agents—the William J. Burns International Detective Agency, Inc.—investigates without expense to members, if the case is reported within ten days after discovery:
>
> Daylight robbery attacks upon a member's banking rooms, whether frustrated or not;
>
> Burglary or attempted burglary of a member's banking rooms, and
>
> Successful or frustrated holdup of a bank officer or employee outside the bank while engaged in pursuit of the bank's business and not on errands of accommodation such as delivering pay rolls or collecting deposits.
>
> Also cases where the reporting bank is liable for loss through:
>
> Honoring forgery of maker's or drawer's name through the clearings;
>
> Honoring forgery of maker's or drawer's name over the counter provided evidence of identification is available;
>
> Drawee cashing raised or altered check provided evidence of identification is available;
>
> Drawee cashing check bearing forged payee's indorsement provided evidence of identification is available;
>
> Sneak thefts not presumptively committed by an officer or employee;
>
> Mortgagor disposing of or removing mortgaged property from the state with intent to defraud, and
>
> Swindles wherein the bank is not guilty of contributory negligence.
>
> Each member is furnished signs showing membership in the American Bankers Association. Protection by the William J. Burns International Detective Agency, Inc.
>
> In accordance with the Association's By-Laws, branches of member banks, unless separately enrolled, are considered as non-members.

Although the exact number of arrests of bank offenders by the Burns agency is not available, a fair estimate of the general annual number may be made. From statements appearing in the pamphlet and circular literature of the Association it is probable that not more than 350 offenders of all classes are actually apprehended by the detective agents. The rate of convictions at present is in the neighborhood of 80 per cent.

The Protective Department, through its detective agents, maintains an extensive gallery of bank offenders. Merely to show the progressive increase in the number of photographs on file, the following table is presented.

If the increase in the number of photographs on file has continued at the same rate for the past twelve years, the number must be about 15,000 at the present time. The gallery includes all known bank robbers, burglars, sneak thieves, forgers, embezzlers, and similar characters.

Year	Number of Photographs
1909	1,600
1913	3,000
1916	4,720
1917	5,420
1918	5,985
1919	6,350
1920	6,775

To maintain the Protective Department, expenditures have nearly trebled since 1913. The following table presents the available cost statistics:

Year	Cost
1913	$65,340.00
1917	67,961.03
1919	82,819.21
1920	99,968.39
1921	110,000.00 [a]

[a] *Journal of the American Bankers' Association*, Nov. 1921, p. 213. The figures for the years prior to 1921 were taken from the Proceedings of the American Bankers' Association Convention for the year given.

Unfortunately, the American Bankers' Association refused to furnish cost figures for the period since 1921, but again fairly accurate estimates can be made. There is good reason to believe that the present annual expenditure is close to $200,000 for retainer fees and investigatory service.

It is evident from the foregoing that with the exception of special investigatory work, such as reference verification of employment applicants, reports of off-duty activities of suspected employees, and other noncriminal investigations, the detective agents of banking institutions do not take any action until requested by the member bank of the Association. The detective service, despite the Association's insistence that its policy is "prevention," is very largely "apprehension."

The Jewelers' Security Alliance and private detectives

At this point we shall examine the available data bearing upon the type of protection employed by another large organization

with members throughout the United States—the Jewelers' Security Alliance of the United States, which was organized on July 13, 1883 "for protection against burglary." In the Year Book published in 1929 it was stated that there were "4,700 members of the jewelry industry united to fight crime." Membership fees in the Alliance are based on the value of the stock to be protected. The following table presents the method of assessing membership fees:

On stock valued at $25,000 or less	$15.00 a year
On stock valued at $25,000 to $50,000	20.00 a year
On stock valued at $50,000 to $100,000	25.00 a year
When capital employed amounts to $100,000 to $200,000	50.00 a year
When capital employed amounts to $200,000 to $400,000	75.00 a year
When capital employed amounts to $400,000 or more	100.00 a year

Members are provided with protection for their traveling salesmen at a nominal registration fee of $10.00 per man.[14]

Membership in the Alliance, according to the pamphlet literature, affords the jeweler an opportunity to aid in the suppression of crime throughout the nation in the following ways:

Forty-six years of uninterrupted crime-fighting has taught the Alliance that the surest way to make and keep its members safe is to departmentalize its operations into these six major divisions:

1. Protecting Members' Premises—The Alliance provides its members with a blue sign so well known to crooks that they fear to attack any concern displaying it. The Alliance also issues a periodical bulletin, "The Alliance Blue Beacon," which tells of new crook-tricks, safeguarding measures, and other information to keep members informed of its constant crime battle.

2. Pursuing Jewelry Crooks—Rarely does a crook attack more than one Alliance member—he does not get a second chance. The Alliance keeps after him until he is behind the bars. No other organization puts as much thought, energy and effort into a crook-hunt as does the Alliance.

3. Searching for Stolen Property—While hunting a crook, the Alliance institutes a search for stolen merchandise which leads into every corner of the country. The Alliance has already recovered over $600,000 worth of stolen jewelry for its members.

4. Prosecuting Crooks—When a crook is caught, the Alliance sees that he gets a heavy sentence. His past history is produced so additional charges may be lodged. The victim must appear as a witness. If neces-

[14] Pamphlet issued by the Alliance. The Alliance, which retains Pinkerton's National Detective Agency, includes the Jewelers' National Crime Committee, the Jewelers' Protective Union, and the Travelers' Protective Service, the last being for the protection of jewelry salesmen and the apprehension of thieves who attack such travelers.

sary, special counsel is employed. The crook must be put where he can do no further harm.

5. Keeping Crooks in Jail—Every Alliance conviction means a stretch in jail. It fights paroles and pardons and, by the force of its power, keeps crooks behind the bars. Every jewelry criminal now at liberty is under close watch to see that he stays away from jewelers.

6. Protecting Traveling Salesmen—Any attack on a salesman registered in the Travelers' Protective Service is handled with the same care given a store robbery. The Alliance is out to conquer jewelry crime in all its forms and, to do this, is using the full strength of its power, forethought and experience.

Apparently "scientific" criminology or the "new" penology inspires little support or confidence in the officials of the Alliance.

As in the case of the American Bankers' Association, the detective agents—in the case of the Alliance, the Pinkertons—do not appear upon the scene until *after* an offense has been reported.

The general practice is the same with both the bankers and the jewelers. The nearest office of the detective agency, the local police, and the main office of the protective organization are notified. Rewards are offered by the Alliance as an incentive to apprehend the offender and, if possible, salvage the loss. Cards bearing the information that the jewelry store is protected by Pinkerton's National Detective Agency are prominently displayed by member stores. It is generally believed, for whatever reason, that the Pinkerton card is more effective for prevention than the Burns card. The reason may lie in the fact that the Pinkertons are the oldest private detective agency in the United States and have been the subject of more romantic tales than the Burns agency. Police departments, while antagonistic toward *all* agency men, more often praise the Pinkerton agency than any other national private detective agency.

Year	Number of Attacks	Losses
1921	478	$384,040
1922	324	349,800
1923	358	321,900
1924	376	1,054,800
1925	384	889,964
1926	370	386,573
1927	279	621,154
1928	270	418,466
1929	246	549,773
1930	362	559,389

The foregoing table presents the available data with reference to attacks upon jewelers who are members of the Alliance, from 1921 through 1930, together with the losses reported.[15]

The nature of the attacks, the losses, the recoveries, and the membership from 1923 through 1930 are given on page 171.[16]

Because only eight years are available and because specific local conditions in various parts of the country are not known with reference to specific years, no interpretation is possible. It may, however, be inferred that spectacular increases and decreases in losses by the various methods of attack may be due to gigantic "hauls" rather than to increased attacks.

A glance at the totals reveals that crimes of violence against jewelers, though the method of attack used was next to the least numerically, resulted in $2,325,047 loss, the highest suffered in the eight-year period presented. Safe robberies, though numerically the least-used method of attack, yielded $853,375, or the second highest loss during the same period. Breaking and stealing from windows was used most frequently as a method for thefts, but was next to the least important from the standpoint of loss. A total of $4,801,119 was lost by members of the Alliance through the activities of criminals, but only $443,428 was recovered. This small recovery amount may be explained by reference to the ease of disposing of gold, silver, platinum, and jewels to fences, at fractions of their value. Diamonds removed from settings and remounted or recut are practically impossible to identify even if recovered. Gold and silver plate melted down and recast is beyond any possibility of recovery. It is interesting to compare member losses, using 5,000 as the average membership, with the total losses reported for all[17] jewelers in the United States, from 1921 through 1929, as shown on page 172.[18]

The reader will readily see that the average annual loss suffered by all jewelers is considerably higher than the annual average loss by members of the Alliance considered separately. The increased number of jewelry stores, together with the much greater number of attacks, would increase the average loss to a certain extent. Nevertheless, it is likely that if all jewelry stores were members of the Alliance, the average would be appreciably decreased.

The number of convictions of offenders against members of the

[15] Figures furnished by Mr. James H. Noyes, Secretary of the Alliance.

[16] This table is constructed from information generously given by Mr. James H. Noyes.

[17] Slightly less than 20,000.

[18] National Commission on Law Observance and Enforcement, *Report on Cost of Crime*, p. 388.

Year	Membership	Safe Burglaries		Store Burglaries		Window Burglaries		Sneak Thefts		Holdups and Assaults		Total Number	Total Loss	Recovery [a]
		Number	Loss	Number	Loss	Number	Loss	Number	Loss	Number	Loss			
1923	6,476	9	$35,700	62	$52,000	137	$56,300	127	$133,000	23	$43,700	358	$321,000	$25,000
1924	6,298	11	92,500	70	73,600	158	66,300	99	32,000	38	789,700	376	1,054,800	110,000
1925	5,940	11	113,995	63	81,325	149	58,854	113	92,543	48	543,247	384	889,964	75,000
1926	5,055	13	68,456	60	49,022	176	103,668	105	90,088	16	75,339	370	386,573	55,000
1927	4,842	11	189,561	42	31,732	112	62,614	103	133,590	21	203,657	279	621,154	50,000
1928	4,653	5	86,025	42	23,625	94	60,387	104	82,879	23	165,550	270	418,466	33,339
1929	4,649	4	32,100	30	9,189	97	48,509	100	67,596	15	392,379	246	549,773	14,472
1930	4,424	5	235,038	40	27,273	136	72,670	154	112,933	27	111,475	362	559,389	80,617
Totals		69	$853,375	409	$347,766	1,059	$529,302	905	$744,629	211	$2,325,047	2,645	$4,801,119	$443,428

[a] Recoveries are estimated.

LOSSES DUE TO THEFTS FROM JEWELERS, 1921–1929

Year	Safe Burglaries		Store Burglaries		Window Burglaries		Sneak Thefts		Holdups		Total Loss
	Number	Loss	Number	Loss	Number	Loss	Number	Loss	Number	Loss	
1921	43	$225,446	228	$282,190	344	$187,704	225	$166,097	133	$979,118	$1,840,575
1922 [a]	35	245,900	217	128,600	234	159,700	150	115,500	141	824,000	1,473,700
1923 [a]	48	450,000	207	175,000	293	300,000	195	250,000	117	800,000	1,975,000
1924 [a]	55	480,000	273	461,600	308	179,800	162	138,600	202	2,123,000	3,383,400
1925	30	189,495	189	339,190	295	162,240	152	152,868	205	2,304,965	3,148,758
1926	40	459,206	173	208,274	320	256,588	145	155,738	99	559,284	1,639,090
1927	33	1,212,326	127	231,447	243	146,930	135	155,945	100	576,325	2,322,973
1928	23	236,600	154	194,143	258	150,593	185	132,851	91	883,749	1,597,936
1929	30	183,520	142	142,887	253	137,895	156	271,693	77	517,579	1,253,574
Average	37	409,213	190	240,370	283	186,828	167	171,032	129	1,060,891	2,068,334

[a] Estimated figures.

Alliance, the amount of money actually spent for detective service, and the amount of money paid in rewards, from 1921 through 1929, is summarized below, from material kindly and gladly furnished by Mr. James H. Noyes:

Year	Convictions [a]	Amount Paid for Detective Service	Rewards [b]	Total Cost
1921	193	$68,163	$10,200	$78,363
1922	154	43,519	9,100	52,619
1923	66	33,146	6,200	39,346
1924	107	45,207	8,340	53,547
1925	132	52,943	6,200	59,143
1926	211	60,297	7,900	68,197
1927	191	41,039	5,400	46,439
1928	107	27,655	5,400	33,055
1929	59	46,130	4,400	50,530
Totals	1,220	$418,099	$63,140	$481,239

[a] Arrest statistics are not available.
[b] Rewards are in addition to the amounts paid for detective work.

The above table reveals that from 1921 to 1930, 1,220 offenders against members were convicted. The cost for detective service for the period totaled $418,099, and rewards totaled $63,140, making the total cost for protection $481,239, or close to one-half million dollars. It is interesting to note that in 1929 there were 59 convictions, with a total cost to the Alliance of $50,530, while in 1928 nearly twice as many convictions were reported at a cost of about $17,000 less.

Mr. Noyes appended the following statement to the information sent to the writer: "During 48 years of work $700,000 has been paid for detective work and $175,000 additional for Rewards." A total of $875,000 has been spent, but more than 50 per cent of that amount was spent in the nine-year period 1921–1929.

As in the case of the American Bankers' Association, photographs and records of jewelry thieves are kept on file.

For the better protection of members, and to prevent attacks upon them, the so-called "Twenty-four Commandments" of the Jewelers' Security Alliance are issued to each member. These, because of their interest and general information, are reprinted here:

1. Don't attempt to run your business alone. Have some one in the store with you all the time. Never show valuable goods to strangers when you are alone in the store.

2. Don't leave your show case or show windows unlocked. Spring locks are the most secure.

3. Don't lose sight of valuable goods for a single instant when showing them to strangers. If possible look over stock shown to strangers carefully before they leave.

4. Don't accept checks in payment for goods from anybody you do not know.

5. Don't be deceived by fine clothes and a good appearance. Sneak thieves must look well to do business.

6. Don't place a tray full of valuable goods before a customer. Show a few pieces at a time so you can watch them all.

7. Don't turn your back to a customer, or go to another part of the store, without first removing the goods you are showing.

8. Don't try to wait on more than one person at a time unless you know them all.

9. Don't mass your most valuable goods in one place; one tray or box; in one show case or in one part of the show window. Gunmen need to act quickly and frequently cannot take time to gather up loot from various parts of the store. A big concentrated display is a special temptation to robbers.

10. Don't tempt window-smashers by large displays of valuable goods WITH ONLY A PANE OF GLASS to protect them. A show case of unbreakable glass or an extra sheet of glass hung on wires about 4 inches inside the outer pane are excellent safeguards during the day. We strongly advise that no valuable articles should be left in the window when the store is closed. If you feel obliged to make a night display an ornamental grill of strong bars outside the window will protect both glass and goods.

11. Don't have handles on your doors that can be fastened on the outside.

12. Don't allow any person or persons to enter the store while you are taking goods out of the safe in the morning and arranging your display, or when putting your stock in the safe at night. Many holdups have resulted from the neglect of this precaution.

13. Don't lose your head if several gunmen enter your store and hold you up. Keep cool and observe them as closely as possible so that you can identify them if arrested. Note any peculiarities of speech or action rather than clothing.

14. Don't be fooled by a fake telephone call while you are showing goods to a stranger, or a disturbance in the street. Sneak thieves often use such tricks to give them a chance to get away with valuable articles.

15. Don't take your eye off your merchandise if customers get into an argument or pretend to fight. This may be another way to put you off your guard.

16. Don't close your store for a short time, leaving the stock displayed, and intending to return later and place the valuables in the safe. Many

times burglars have taken advantage of this careless practice and heavy losses have resulted.

17. Don't leave valuable goods in show cases when closing for the night. Use your safes to their utmost capacity. If too small exchange for larger ones or buy an additional safe. If possible safes should be electrically protected, as safe burglars are increasing in number and daring. No safe made can withstand the attack of an expert cracksman if he has sufficient time.

18. Don't have your safe located where it cannot be plainly seen by the police or watchman and passersby. It is especially dangerous to have the back of safes against a partition, or protruding into a rear room, where burglars could work without risk of detection.

19. Don't depend entirely on locks and bars to keep out burglars. Electric alarms on all doors, windows and transoms are not very expensive and every jewelry store should have them. Sirens to foil holdups can be included at small additional cost.

20. Don't allow your membership to lapse. Pay your dues promptly so that the protection will always be in force.

21. Don't neglect to place a private scratch-mark on your jewelry, as this sometimes proves to be the only direct evidence upon which a jewelry thief can be convicted. Keep an accurate record of the movement and case numbers of watches, for the same reason.

22. Don't let a stranger take any goods out of your store to show to a presentation committee at a bank, or factory or hotel, or some one sitting in an automobile. A number of jewelers fell for this trick pulled off by young men who came in without hat or coat as though they had stepped out of an office near by.

23. Don't unnecessarily talk about receiving valuable goods in the presence of strangers or persons who might use this information to your disadvantage.

24. Don't forget that Alliance signs form one of the best safeguards a jeweler can have. Be sure that the door plate is placed WHERE IT CANNOT FAIL TO BE SEEN by every one entering your store, and the reward sign PROMINENTLY DISPLAYED in your show window, or office. Impress upon your window dresser that it absolutely must not be left out, or put in some out of the way corner, so that its warning effect will be lost.

Equipment for private protection

Even as mentioned in connection with railroad police, some jewelers, banks, and even other business establishments, are either experimenting with or have installed tear-gas equipment. In the case of banks and stores, pressure on a button or the opening of a locked door results in the releasing of tear gas, which makes it impossible for the offender to operate. Burglar alarms are sufficiently familiar to make extended mention unnecessary. Electric service companies, such as the Holmes Electric Protective Service, maintain an elaborate system in most large cities, so that a break

in any of their subscribers' buildings immediately registers in the main office and guards are sent to the establishment from which the break is reported. Cards are furnished and the usual contractual fee is the method of compensation. These companies also undertake investigation of offenses against their subscribers.

It is not to be assumed that commercial crime detection is restricted to the agencies mentioned. Practically all agencies undertake criminal investigation, but the vast majority of cases handled by agencies are civil rather than criminal. It is likely that crime investigation by private agencies is concerned chiefly with securing information for persons who prefer to avoid publicity, for whatever reason, as suggested earlier.

Needless to say, the inside operative is not a policeman in any sense, but since private detectives are often engaged in this type of work, and, further, furnish the great majority of undercover men to industrial establishments not utilizing their own employees for inside work, sufficient will be given to indicate the place of industrial inside work in the general activities of private detective agencies. Union "busting" agencies, whose sole type of work is labor espionage, will not be discussed at length.

Practically all private detective agencies do or will furnish operatives for the exclusive purpose of discovering the thoughts, plans, and aims of employees, with special emphasis on "radicals" and labor organizers. The exact number of dismissals resulting from the operatives' report that the radical or organizer is "inefficient" cannot be known. It is extremely difficult to learn the true character of workmen in a railroad shop or a steel mill, but the literature suggests a condition not unlike the system of Abdul-Hamid II.

To secure the services of these "eyes, ears, and noses," the management of the corporation needs merely to communicate his requirements to such agencies as the Railway Audit and Inspection Company, the Thiel Service, the William J. Burns International Detective Agency, or Pinkerton's National Detective Agency. Literally thousands of less well-known agencies stand ready to furnish informers, and by common consent the character of inside operatives varies with the reputation of the agency. This much may be confidently asserted: the labor spy, from whatever agency, is regarded, even by the company employing him, as one of the lowest forms of human life, from the moral standpoint.

Generally speaking, the operative secures employment in the regular way, that is, by applying to the employment bureau of the industrial establishment and taking his chances. In some cases "recommendation" may be made by the general manager. When he has finally found employment, his chief task is to keep his eyes and ears open and his mouth shut, except when sympathy and encouragement are necessary to secure information concerning labor's movements and plans. If he is seeking information with reference to shortages, as in a ticket office of the railroad, his technique, obviously, is largely silent observation. Re-

ports are sent to the agency at the close of each day. At the agency the report is "edited" and polished, always leaving a suggestion that valuable information is undoubtedly about to be secured. This assures continuous employment. If the employing company contemplates abandoning the "service," valuable "information" is discovered immediately. Most of the information, on the word of employers, is worthless.

The report is a masterpiece of secrecy. The operative uses a number, and this may be frequently changed, always in the interest of efficiency. A mass of meaningless phrases, symbols, code numbers, letters, and signs are used. The report must be mailed from a place distant from the operation. Telephone calls to the agency must come from the next town. Secret mail boxes, under various names, are the destinations of the reports. Special watermarked paper is often used so that any interception with attendant substitution is at once detected. Two operatives must never be seen together. Operatives must room alone when possible, and should not have too much money. They should join in the plans of labor, but not too violently. The final victory is to become secretary of the Local, so that documents can be obtained. To achieve this nonpareil treachery requires long experience and ethical nearsightedness. However, the ethics is subordinate to the legality.

Labor's attitude toward detectives

The American Federation of Labor, about which more will be said later, is the natural enemy of all labor spies and private detectives. Although the following was written many years ago, it accurately reflects labor's present attitude:

> Organized strike-breaking aggregations are quite resourceful, but most of them follow similar methods. Appealing letters and craftily worded circulars are addressed to employers. The fear of employers is touched in an effort to convince them that they are being cheated and robbed by all their employes, including even their most trusted foremen, superintendents and general managers. These detective agencies prey upon the weakness inherent to human nature. They play especially upon the "terrors of the unknown," latent suspicions, trade jealousies, and personal envy. They endeavor to persuade employers that their "expert detective agencies" can discover leaks in business—waste of material—inefficient management—irregular personal conduct and habits of trusted employes. They vouch for the infallibility of the eagle-eyed agents they persuade employers to engage—for a price. They adroitly phrase appeals to engage their service so as to arouse the fear that awful possibilities will follow the alliance of their employes with the labor organizations.

They undertake to ferret out the active spirits in the shops and factories who show an independent trend of mind, or who in an unguarded moment, might talk too freely concerning the rights of a citizen. Of course, such men are instantly spotted for discharge. . . .

The detective agencies play a double game. They work upon the sensibilities of many innocent, honest workingmen whose services they secure. They keep constant but ambiguous advertisements in the cosmopolitan newspapers. When they are in need of men for service in special trades they specify the occupation. Frequently they will boldly advertise for men and include "none but union men need apply." When applicants answer they are given the address of an office where they are met, ushered into a private office before a superintendent or a general manager, who questions them in various ways, almost always to impress upon such applicants the idea of taking advantage of the "exceptional opportunity" to advance their position in life, or, what a great honor it is for them to be selected to be intrusted with such responsible duties, and how prospective employers will give the applicant special personal attention. Every flattering appeal is made to the weakness or necessity of the person seeking the advertised job. . . .

The members of unions they succeed in engaging are urged to become boisterous and radical in expression; they urge them to hold office in the local unions, so as to be able to get access to the complete records, and the financial accounts of the unions, as well as to the finances themselves. They instill into them a fault-finding spirit so that they can harass and annoy the honest, earnest worker in the union who is trying to make progress steadily and rationally. They exert [*sic*] their agents to provoke and incite strikes. During such strikes they play the part of *agents provocateurs,* that is, to advocate loudly that the men on strike use force and resort to unlawful conduct; and secretly offer to lead in any such efforts. The mere fact that such a course has been "talked" at strikers' meetings, though it be by the detective agent alone, is enough for his secret report to the agency and the employers. By such means they open up another opportunity to have "more detectives" employed as sluggers and gunmen in case a strike ensues. It is, therefore, patent to any ordinary observer, that these mischief-making, strike-breaking agencies take the meanest advantages of employers and workers. They arouse fears and incite unnecessary troubles—all for the purpose of obtaining money from the employers themselves, as well as to create confusion among, and hardships for, the workers.[1]

The following, which purports to be an analysis of the organization of Pinkerton's National Detective Agency, is presented without comment:

The executive department in charge at one office or grand division of the Agency is the exact counterpart of the administrative personnel at any

[1] *Report of Proceedings of the Thirty-fifth Annual Convention of the American Federation of Labor,* held at San Francisco, California, Nov. 8–22, 1915, pp. 80–81.

other branch and is admirably constructed to handle, supervise and develop the business.

The executive staff of an office consists of a superintendent, and as many assistant superintendents as are required to manage the volume of business transacted.

It is one of the principal duties of the executive officials to revise the reports of the operatives preparatory to their being typewritten and forwarded to the different clients, as many reports, particularly those received from secret operatives, are, owing to the neglected or limited education of the writers, almost unintelligible. An office which employs about thirty operatives is usually equipped with an executive staff of five persons; one superintendent and four assistants. Thus, each executive official has charge of five operatives whose reports he must revise.

While it is certainly necessary to correct and rearrange an ungrammatical, misspelled report, yet, as it is hardly possible that five officials are employed to do work which is purely clerical, and which can easily be performed by one well-educated person, we must surmise that there is something deeper in the revision of a report than is superficially apparent, and our inference is correct as we shall see presently.

The daily report of a secret operative costs a client at least ten dollars, and it is but natural for the client to insist on getting such information as will warrant the continuance of the operative's services.

The secret operative who is but a novice, and even the veteran, is essentially a workingman, and retains all the characteristics of one. The new operative may make mistakes by being officious, overzealous or lazy, while the veteran is likely to commit a blunder by being careless or overconfident. Both are apt to say or do something, at any time, which might endanger the success of the operation, and entail the loss of a valuable client.

A secret operative must be on terms of friendship and confidence with his fellow-employees, in order to obtain the information desired. He must act naturally in all things, so that his comrades will see in him a fellow-workingman with common likes and dislikes, and a trustworthy brother whose hopes and interests are identical with their own.

Occasionally the Agency is fortunate enough to secure the services of a secret operative who is a model; but the average operative is a positive trial from the day he enters the service until he resigns or is discharged. He is always doing something foolish or imprudent, and is a constant source of anxiety to the Agency.

The chief trouble with the secret operative is his disinclination to work at his trade, although his doing so is of paramount importance to the success of the operation, and wards off the danger of arousing suspicion as to his real identity. The operative's propensity to loaf is mainly due to the fact that he is not permitted to retain the fruit of his labor, which is credited to the client, but must be content with the salary he receives from the Agency and the extra allowance from the client to cover his living and other expenses.

It also happens that a secret operative, in his fear of detection, particularly while working against a union, impersonates the union agitator and trouble-breeder so very naturally that the client becomes alarmed and threatens to discontinue the work.

It should also be borne in mind that as a general rule the secret operative is located in some railroad town or mining camp, often at a great distance from the Agency, where he cannot be safely visited and instructed by an assistant superintendent except in a case of extreme necessity.

Yet, on the whole, the Agency experiences but little difficulty in overcoming these seemingly serious obstacles. The operative himself furnishes the Agency with the means that enable the official in charge to rule him with an iron hand, and to guide him intelligently and safely along the dangerous path of treason and dishonor. The means in question is simply the operative's daily report.

The assistant superintendent does more than merely revise the operative's daily report. He analyses and studies it. The report tells him when the operative rose in the morning, whether he worked at the client's plant during the day, what time he quit work, when he had his supper, whether he spent the evening trying to obtain information, what time he retired, how much money he spent, and what for. The report further tells how the client's employees worked during the day, gives the name of every man whom the operative spoke with during the evening, the nature of the talk, and its exact time and place. If a union meeting occurred, the report must contain a complete and detailed account of the meeting.

The assistant superintendent records the names of the operative's friends and fellow-workingmen, and studies their characteristics. He studies the conditions which prevail at the scene of the operation, and in a short while is as thoroughly familiar with everything transpiring in the town or camp as is the operative himself.

If the assistant superintendent receives an unsatisfactory report, he at once writes the operative a sharp note pointing out the omission or the nature of the mistake, and warns him against a repetition of the offense. If the official notices that the operative is inclined to loaf, he promptly calls him to account; and if the operative's reports show that in his fear of detection he is overdoing his part—speaking and acting too radically—a soothing letter is at once sent him, showing him that his fears of detection are groundless and more apt to be realized by playing an extreme part than by acting naturally. Letters of criticism and instruction are sent almost daily to the operative.

In addition to acting as a check upon the operative, the latter's daily report serves as an excellent excuse for the Agency to interfere in the management of the client's business to a far greater and more harmful extent than has ever been dared by any labor union. And this baleful interference is so shrewdly accomplished that the client, far from resenting it, actually considers himself under great obligations to the Agency.

And he surely has reason to be grateful; for, in addition to the regular reports of the operative, he receives about once a week a neatly arranged

summary of the operative's reports, which embodies suggestions and recommendations from the Agency.

The summary is compiled by the assistant superintendent, and as a rule is an interesting document. It is often a choice bit of realistic art. It gives, first of all, the names of those men whom the operative has reported as "Dangerous Union Agitators," and suggests in what manner they should be discharged, so that their dismissal cannot be laid at the door of the operative. In the second place, the summary impresses upon the client the necessity of continuing the services of the operative if he would safeguard his interests from the aggressions of a union and protect his person and property from criminal conspiracies.

At times the assistant superintendent does a truly meritorious and charitable act by recommending improved ventilation, or the purchase of new tools and machinery. However, when suggesting improvements of this kind, the Agency endeavors to prove to the client that the benefits accruing would more than compensate for the expense. The summary concludes by advising the client to wage an unrelenting war against unions and unionism, and assuring him of the Agency's hearty support in this worthy cause.

And many a client has such faith in the Pinkerton Agency that in time he does not discharge an employee or install an improvement until advised to do so by the operative or the assistant superintendent. . . .

It is doubtful whether the Agency would have ever acquired the power it now possesses were it not for its peculiar system of canvassing for new business. And the Agency, it should be clearly understood, does not believe in waiting with folded hands for crimes to occur in order to get busy; instead, it hustles for business much the same as does any other progressive commercial institution. The only difference is, that the Pinkerton Agency does not hire special canvassers, but compels its talented assistant superintendents, superintendents and division managers, in addition to their other work, to go out and hunt for new business. So stringent is this rule, that an official, if he would retain his position, must do some canvassing each week; and that official who secures the most new work, is the one who ranks highest in the estimation of the general management of the Agency.[2]

It is probable that there is no one who is not a member of the detective fraternity who knows more about operatives in industry than Mr. Robert W. Dunn. While due allowance must be made for his obvious bias against the labor spy, no criticism of his facts has appeared. Presumably where only facts, and not Mr. Dunn's interpretations, are concerned, these may be accepted as valid. Mr. Dunn has the following to say about reports:

The spy reports to the agency. The agency in turn reports—and at great length—to the company that hires it. Of course it doesn't always

[2] Friedman, Morris, *The Pinkerton Labor Spy*, N. Y.: Wilshire Book Co., 1907, pp. 14–19.

report what the spy tells it. It "reworks" the material, "digests" it, and puts it in such shape as to impress the client, that is to convince the company that it is getting its money's worth, so that its contract for service will be renewed when it expires.[3]

The method of undermining the union organization is apparent in the following:

Bribing labor leaders and placing them on the pay roll of the agency, thus weakening the union and securing additional good sources of information. Hundreds of leaders of unions have been "approached" by agencies, and many of them, all too willing to be corrupted, have been easily persuaded to take on this "extra" work for the employing class. . . . A dozen officials of local unions in Akron, Ohio, were discovered to be on the staff of the Corporations Auxiliary Co. a few years ago. And Robert Beattie, vice-president of the Stationary Firemen's International Union and secretary of the Pittsburgh Central Labor Union was shown to be a spy for the Railway Audit & Inspection Co.[4]

Instructions given the inside operative appear below:

Here is a typical paragraph from an instruction letter sent out by the Corporations Auxiliary:

"Try at all times to find out who is a member of a labor organization. Report same at once in your daily report. Be a good mixer. Mingle with the fellows in the noon hour, in the factory and in the street car. Try to find out how they feel, if they are dissatisfied or if they are satisfied with their jobs. Try to find out if they urge other fellows to join their organization. Be always on your guard. Do not display too much money, but don't be a miser. Be willing to spend a few cents for a drink if it will make a man talk. In the organization where you are a member, try to get as popular as you possibly can. Try to hold as many and as high offices as you can. Try always to keep in close touch with other officers of your organization, in particular with the business agents."[5]

The following quotation is taken from Spielman's work on the stool pigeon:

The stool pigeon is to be found everywhere a union is contemplated among the employes of a mill. They assume different rôles. *Sometimes they are the most rabid agitators for a strike; at other times when a strike actually is contemplated, they assume the rôle of not only objecting to calling the strike, but they have been found to pack the meetings in order to swell the vote against a strike. Some of these stool pigeons at times are not slow to become an officer of a union, notably the secretary and when they get control of the books and names and addresses of the membership, their job is complete.*[6]

[3] *Spying on Workers,* International Pamphlets, No. 17, N. Y., 1932, p. 13.
[4] *Ibid.,* p. 14. [5] *Ibid.,* p. 9.
[6] Spielman, Jean E., *The Stool-Pigeon and the Open Shop Movement,* Minneapolis: The American Publishing Co., 1923, p. 152.

Methods of reporting are exemplified in the following:

KANSAS CITY, MO.
August 11, 1920.

MR. A. J. ESPLIN,
General Delivery,
Minneapolis, Minn.

Dear Al: Beginning with Friday of this week, we will send all telegrams to you in code and ask you to wire us always in the same code.

The code in use is to wire the first, third, fifth, seventh, ninth, etc., words by Western Union and the second, fourth, sixth, eighth, and tenth, etc., words by Postal Telegraph. Messages cannot be read by you until you have received both wires, so beginning Friday if you receive a telegram from one telegraph company, be sure to get the other one from the other telegraph company before you can read the wire, and send your messages to us the same way.

Yours very truly,

WM:SC THE MARSHALL SERVICE.[7]

By such high-minded methods are business and industry "harmonized" and "stabilized." [8]

Organized labor has attempted to secure Federal legislation eliminating private detective agencies entirely. Typical of the agitation carried on by the American Federation of Labor, and which to date has been ineffective, is the following:

Whereas, Certain functions of a governmental nature are assumed by private detective agencies, which are useless, parasitical enterprises, whose

[7] *Spielman, Jean E., The Stool-Pigeon and the Open Shop Movement,* Minneapolis: The American Publishing Co., 1923, p. 132.

[8] For readers interested in this phase of detective work, the following are suggested: Howard, S., *The Labor Spy,* N. Y.: Republic Publishing Co., 1924; *Report on the Steel Strike of 1919 by the Commission of Inquiry, the Interchurch World Movement,* N. Y.: Harcourt, Brace and Howe, 1920, pp. 221–233; Laidler, H. W., *Boycotts and the Labor Struggle,* N. Y.: John Lane Co., 1913, pp. 290–304; Hunter, Robert, *Violence and the Labor Movement,* N. Y.: Macmillan, 1914, pp. 280–314; *Public Opinion and the Steel Strike.* Supplementary Reports of the Investigators to the Commission of Inquiry, the Interchurch World Movement, N. Y.: Harcourt, Brace & Co., 1921, pp. 62–70; Grant, Luke, *United States Commission on Industrial Relations. The National Erectors' Association and the International Association of Bridge and Structural Ironworkers,* Washington, 1915, pp. 99–106; Gompers, Samuel, *Labor and the Employer,* N. Y.: E. P. Dutton & Co., 1920, pp. 39–40, 51, 53; and works previously cited. See also Fitch, John A., *The Steel Workers,* N. Y.: Russell Sage Foundation, pp. 219–220; supplemental statement of Chairman Frank P. Walsh, *Final Report of the Commission on Industrial Relations,* Washington, 1915, p. 298; Williams, Whiting, *What's on the Worker's Mind,* N. Y.: Chas. Scribner's Sons, 1920, pp. 123–124, 313; Gulick, Charles A., Jr., *Labor Policy of the United States Steel Corporation,* Ph.D. thesis, Columbia University, 1924, pp. 114, 117; Pinkerton, Robert A., "Detective Surveillance of Anarchists," *North American Review,* 173: 609–617, Nov. 1901.

agencies are principally directed to the breaking up of organized labor, and the homes of workers; and

Whereas, The employes of these private detective agencies are more apt to spend their energies in manufacturing evidence, for which a price will be paid, than in endeavoring to establish and discover real evidence; and

Whereas, Organized labor has suffered and does suffer grievous wrongs at the hands of these perjuring, lying, sneaking enterprises; and

Whereas, These private detective agencies are often used to cause strikes and violence and tend only to promote discord in the nation when there should be the utmost harmony and coöperation, and are often illegally used by employers to prevent the orderly processes of our courts being carried out; and

Whereas, The Government of the United States has signified its intention that all persons shall be engaged in useful labor; therefore, be it

Resolved, That we request the Department of War to include in unessential and useless work the nefarious business of private detective agencies, and that the Congress and the Senate of the United States be urged to immediately enact legislation abolishing private detective agencies and making the government the sole enforcer of the laws of the nation. . . .[9]

McParlan and the Molly Maguires

The most spectacular as well as the most efficient industrial inside work—in this instance involving investigation of criminal activities—was that of James McParlan, who assumed the name of James McKenna and, through what the writer regards as one of the most courageous pieces of undercover work, succeeded in smashing the strangle-hold of a group of criminals in the anthracite coal fields in the 1870's.[10]

Briefly stated, the Molly Maguires were members of the Ancient Order of Hibernians employed and living in the anthracite coal fields of Pennsylvania from roughly 1860 to 1880. There was no such *organization* as the Molly Maguires, this term having been acquired by analogy to a group in Ireland, symbolized by an old woman, Molly Maguire, bent on destroying the English. The American edition of the Irish group was composed of members of the larger organization—the Ancient Order of Hibernians.

The object of this band of guerrillas was to secure economic control of the anthracite mines by excluding undesirable national groups, and to secure political control of the anthracite counties

[9] *Report of Proceedings of the Thirty-eighth Annual Convention of the American Federation of Labor,* held at St. Paul, Minn., June 10–20, 1918, pp. 230–231. See also pp. 166, 186. Cf. *ibid.,* 1914, pp. 233, 264, 265, 351, 352; 1915, pp. 76–86, 192, 255, 331–333.

[10] See Rowan, R. W., *The Pinkertons: A Detective Dynasty,* Boston: Little, Brown & Co., 1931, pp. 238–270.

by electing their own candidates to the legislature and to judgeships. The method of securing such control was largely elimination of opponents by assassination, ambush, intimidation, and general terrorism. The person selected for elimination was murdered by members of a lodge located in a different town, so that if they were identified, alibis could easily be sworn to by members of the assassin's lodge. The murderer was chosen by the lodge, under the direction of the bodymaster. The period of violence and terrorism coincided with the period when labor organization was relatively weak, while "on the other hand little was heard of lawlessness between October, 1868, and December, 1871, which was the period of the 'greatest strength of unionism' . . ." [11]

At the request of the Philadelphia and Reading Coal and Iron Company, Allan Pinkerton, head of the newly formed Pinkerton's National Detective Agency, of Chicago, selected a young Irishman named James McParlan to go into the heart of the region where the Mollies were operating, and, if possible, to join the group. He went to the anthracite fields in the fall of 1873, with the promise that whatever he learned would never be divulged as reported by him, and that in the event of arrests he would not be required to take the witness stand.

McParlan, assuming the name of James McKenna, a "green-goods" man, and posing as a fugitive from justice for counterfeiting, so ingratiated himself with his fellow Irishmen that he managed finally to become secretary of one of the lodges, which made it possible for him to sit in the most secret councils and learn at first hand past exploits as well as present and future plans. His observations he reported to another Pinkerton, Captain Linden, who was also a coal and iron policeman for the Philadelphia and Reading Coal and Iron Company. These reports were transmitted to the agency in Philadelphia, which in turn sent them to the client, the Coal and Iron Company.

McParlan joined the Mollies in 1874 and during the next two years gathered enough evidence to smash the hold of the Molly Maguires and send at least ten persons to the gallows. In March 1876 his fellow lodge members suspected that McParlan was a spy. He was to be given a trial by the council of the order. As he and his fellow members approached the hall where the Mollies were ready to expose him, he made a dramatic escape on a train just leaving the town. His next appearance in the anthracite fields was for the purpose of testifying against his former friends

[11] Oneal, James, *The Workers in American History*, N. Y.: Rand School of Social Science, 4th ed., 1921, p. 181.

and fellow lodge members. One of the attorneys for the defense delivered the following in the court room during one of the trials:

It is well known that in the early part of the month of June 1875, the county of Schuylkill was in a state of commotion, ready for a general conflagration, wanting only the application of the torch, and then it was that the Coal and Iron Company found it necessary to arm intelligent, honest, faithful policemen—and this I say they all are, every one of them I know to be worthy, faithful, intelligent men, who would sooner face death than do a dishonorable act—and in the town of Shenandoah about that time was the picked body of that force assembled under Captain Linden, the assistant superintendent of the detective force of this country, in Chicago, and next in authority to Mr. Pinkerton himself, and with whom Mr. McKenna, in his capacity as a detective, was obliged to communicate, correspond, and consult. . . . The man who will take you to his bosom, gain your confidence, and then insidiously and stealthily work upon your affections, your favor or your esteem, and then like a viper turns upon you and betrays you, ought to be condemned by every honorable and right-thinking man.[12]

It is probable that the following excerpt is considerably overdrawn, but it appears to be typical of descriptions given at the time the Mollies were "organizing" the coal regions:

It is said that where Attila's charger put down his hoof no grass grew; but where Mrs. Maguire put down her "brogan," there was an ugly mark —a corpse. Outrage followed outrage, till the coal regions of Pennsylvania became a byword of terror. Wives trembled as their husbands announced their intention of visiting the mining districts. People feared to stir out after dark, and never budged by broad daylight without a pistol —which availed them little if the assassins got the first shot, as they invariably did. . . . Her work was not effected by a solitary ruffian lurking under a hedge, but by gangs of assassins, five, ten, or twenty in number, who surrounded the house of the victim, if they could not catch him abroad, and did him to death then and there. Molly ruled over township and shanty. She controlled elections, and nominated judges. Those who differed with her seriously died—shot, or prodded to death with equal certainly in a narrow glen, or in the broad highway. . . . Her creatures were chiefs of police, constables, and commissioners; and one of them was almost on the judicial bench itself. Molly Maguire, luckily for Schuylkill County and the State generally, did not, however, quite get upon the bench, but she was everywhere else.[13]

Even if conditions were only half as bad as described above, extreme measures would have been necessary to bring about

[12] *Report of the Case of The Commonwealth* v. *John Kehoe et al., Members of the Ancient Order of Hibernians, Commonly Known as "Molly Maguires,"* Pottsville: Miners' Journal Book and Job Rooms, 1876, pp. 197, 201.

[13] "Molly Maguire in America," *All the Year Round,* N. S. 17: 271, Dec. 2, 1876.

peace, order, and security, and McParlan undoubtedly was the chief instrument through which such conditions were restored. He is also alleged to have been "the first instance of the employment of the spy and *agent provocateur* in the unions." [14] Doubtless he was a spy, but it is not so certain that he actually suggested the commission of crimes. The writer holds no brief for the morality of undercover methods, but no evidence was found to warrant the acceptance of the statement that McParlan actually suggested who should be murdered.[15]

While no one can applaud treachery, when viewed as an ethical principle, the result achieved may overshadow and outweigh specific detection techniques. If a person regarded as a definite menace is at large, *any* means designed to safeguard the welfare and security of the group—even treachery—may be successfully defended and if necessary should be employed. In the light of history and in view of the facts relative to the Molly Maguires and McParlan's investigatory work, the writer inclines to the view that, in this instance, the end justified the means.

The Pinkertons at Homestead

The Pinkertons, largely through the excellent publicity work by the founder of the agency, Allan Pinkerton, became without doubt the most famous detective agency in the country. Beginning with the accidental discovery of counterfeiters on Bogus Island in the Fox River in Illinois by this young Scotch immigrant, through the exploits of the Civil War and subsequent establishment of the United States Secret Service and a number of spectacular adventures, the Pinkerton detective became comparable to "the eye never closed" of the Hawkshaw of fiction. Incidental to the development of this reputation was the growing hostility of organized labor to detectives generally, and to the Pinkertons specifically.

Probably more important than the exposure of the Molly Maguires by McParlan, in the development of this hostility, was the labor débâcle at Homestead, Pennsylvania, in 1892. It is fairly accurate to say that labor has not yet succeeded in outmaneuvering the Pinkertons, and this fact is not the least reason for labor's hatred and resentment. In the case of the Homestead strike, the Pinkertons did not become police at any time, because of the opposition of the strikers, who successfully prevented their landing from the barges on the Monongahela

[14] Oneal, James, *op. cit.*, p. 181.

[15] See editorial comment in *The Nation*, 24: 228, Apr. 19, 1877.

River. We are not here concerned with the causes[16] of the strike, but rather with the Pinkertons' connection with it. Thus the following discussion will center directly on the Pinkertons, the reasons for their presence, and their activities at Homestead during the period they were practically imprisoned on the river.

The following letter from Henry Clay Frick, General Manager for the Carnegie Steel Company, to Robert A. Pinkerton, head of Pinkerton's National Detective Agency, will serve to introduce the strike itself:

THE CARNEGIE STEEL COMPANY, LIMITED,
Pittsburg, Pa., June 25, 1892.

Dear Sir: I am in receipt of your favor of the 22d.

We will want 300 guards for service at our Homestead mills as a measure of precaution against interference with our plan to start the operation of the works on July 6, 1892.

The only trouble we anticipate is that an attempt will be made to prevent such of our men with whom we will by that time have made satisfactory arrangements from going to work, and possibly some demonstration of violence upon the part of those whose places have been filled, or most likely by an element which usually is attracted to such scenes for the purpose of stirring up trouble.

We are not desirous that the men you send shall be armed unless the occasion properly calls for such a measure later on for the protection of our employés or property. We shall wish these guards to be placed upon our property and there to remain unless called into other service by the civil authorities to meet an emergency that is not likely to arise.

These guards should be assembled at Ashtabula, Ohio, not later than the morning of July 5, when they may be taken by train to McKees Rocks, or some other point upon the Ohio River below Pittsburg, where they can be transferred to boats and landed within the inclosures of our premises at Homestead. We think absolute secrecy essential in the movement of these men so that no demonstration can be made while they are en route.

Specific arrangements for movement of trains and connection with boats will be made as soon as we hear from you as to the certainty of having the men at Ashtabula at the time indicated.

As soon as your men are upon the premises we will notify the sheriff and ask that they be deputized either at once or immediately upon an outbreak of such a character as to render such a step desirable.

Yours very truly,

H. C. FRICK,
Chairman.[17]

[16] See Wilson, Erasmus (Ed.) *Standard History of Pittsburgh,* Chicago: H. R. Cornell & Co., 1898, pp. 964–965; also *Investigation of the Employment of Pinkerton Detectives in Connection with the Labor Troubles at Homestead, Pa.,* House Report, No. 2447, 52nd Cong., 2nd Sess., Feb. 7, 1893, vol. 3.

[17] *Investigation of the Employment of Pinkerton Detectives in Connection with the Labor Troubles at Homestead, Pa.,* pp. 33–34.

The reason local deputies were not hired was explained by Mr. Frick as due to past experience with the Sheriff of Allegheny County. Citizens in former crises had refused to join the Sheriff as deputies for service against labor. When the Homestead strike was impending, the Sheriff found himself unable to enroll more than 52 of the 400 deputies requested by the Steel Company.[18] The citizens notified to join the Sheriff ignored the summons, and written notices from the deputies were ineffective. Sheriff McCleary, on July 6, 1892, sent three letters to the Governor urging immediate action. The Governor replied with four letters urging that deputy sheriffs be secured, and called upon all citizens to respond to the Sheriff's request. Finally the militia, under Major-General Snowden, was ordered to Homestead.

Meanwhile the Pinkertons were proceeding to the Carnegie Steel works at Homestead. On July 6 they arrived on the Monongahela River, ready to take over the business of guarding the plant. Pickets in skiffs on the river gave the alarm, and in a short time the river bank was crowded with striking workmen, fully armed. There is no agreement as to which side fired the first shot, but the evidence indicates that it was probably fired from the river bank.[19] The Pinkertons were not armed, strictly speaking, but arms in boxes were aboard the barges. These were taken by the Pinkertons, who returned the fire. The Pinkertons lay on the bottom of the barges to escape the bullets from the strikers' guns. It was reported that oil was poured into the river and ignited, in the hope of incinerating the Pinkertons. Throughout July 6 the conflict continued. The following excerpt is taken from the minority report:

Mr. Hugh O'Donnell in his testimony said: . . .

"Then there were a number congregated around me and told me not to raise the white flag, so I pulled the flag down, and at the risk of having my hand shot off I put it through one of the beams and continued to wave it until the commander or some one responsible to the men on board the barge responded. I saw him crawling on his hands and knees and waving his handkerchief, and I got one of our men to tell him in the event any man on the barge exposed himself to fire from the beach, that one of our men would expose himself. One of the men jumped aside and said

[18] *Investigation of the Employment of Pinkerton Detectives in Connection with the Labor Troubles at Homestead, Pa.*, pp. 56–57.

[19] *Ibid.*, pp. 116–117, testimony of Joseph H. Gray, a deputy sheriff. See p. 182 for testimony of A. J. Taylor, groceryman, stating that the first shot came from a boat. See also *Pinkerton's National Detective Agency and its Connection with the Labor Troubles at Homestead,* issued by Pinkerton's National Detective Agency, 1892, pp. 1–2, 10–11, 21–26.

that he would expose himself also, and we jumped from behind the beams. I will say that the Pinkerton man came to the bow first and he exposed himself and waved a handkerchief, and some other man with him. Seeing this we immediately went down to the boat and parleyed. I made the remark, 'Are not you sick of this firing?' and he said, 'Yes, heartily sick of it.' 'Now,' I said, 'what are the conditions on which you will surrender?' He said, 'We are willing to surrender on a pledge from you and your people that you will pack our arms in boxes, and we will first unload them.' I do not know the technical expression for it. 'We will pack them in boxes, and you will give us safe passage from Homestead.' I flattered myself I had sufficient control over our own people to do that, but I did not consider at the time that half the people who had congregated there were from various points in the vicinity of Homestead. I then placed a guard over the gang plank and told them to allow no one to enter. We got some of our best men and placed them, and appointed a committee of other men, and they commenced to unload the rifles.

Afterwards, when I went to see them unloading the rifles, I spoke to one man in charge and requested him to allow me to have one loaded rifle to prevent the looting of the barges, for, as I said, we had a mob outside of wholly irresponsible parties, and I mounted the table—they had a table running the full length of the barge—I got on that table, and I superintended the unloading of those rifles. I will state that I had lost my voice, but in fact I admonished the people not to loot anything, as we were responsible for it. The men changed their uniforms, etc., and started out. Before they started out they were formed into companies. I had asked men who had marched men to form them into companies, and to assume command, and to guarantee these people safe protection to the railroad station. When all was ready I gave the order and they marched out, and I remained on the boat until the last man. I will state by this time people were coming up, down, and across the river, and that the barges were in the hands of the rabble. I left the boat and they were marched to the rink, and the people formed on either side—men, women, and children—and I must say they were subjected to very inhuman treatment, which our men were powerless to protect them from. We took them to the rink, and that night we sent them off.[20]

After the men surrendered, the barges were burned, resulting also in the destruction of the pump house on the shore."

It may readily be concluded that, regardless of labor's just grievance with the Carnegie Steel Company, the trickery employed to secure the surrender of the Pinkertons was as unethical as the methods labor has always publicly condemned.

So much emerges with clarity: that the Pinkertons, recruited in the large cities, had no personal interest in the labor dispute and regarded the employment offered them to be one of guarding

[20] *Investigation of the Employment of Pinkerton Detectives in Connection with the Labor Troubles at Homestead, Pa.*, pp. XXII–XXIII.

property and not of smashing the union, regardless of what Mr. Frick and others might have been contemplating.[21] The union's offer to guard the plant during the suspension was highly naïve and arrogant. Viewed at this date, the impartial observer comes to the inescapable conclusion that the strikers were responsible for the bloodshed and destruction far more than were the Pinkertons.[22]

As a result of the rioting and bloodshed at Homestead, the Pennsylvania Legislature passed the law of May 29, 1893, forbidding the importation of armed guards from other states.[23]

[21] Fitch, John A., *The Steel Workers,* N. Y.: Russell Sage Foundations, pp. 125–126.

[22] *The Nation, 55*: 22, July 14, 1892; *ibid., 55*: 251, Oct. 6, 1892.

[23] Laws of Penna., 1893, No. 119, pp. 174–175; Pepper & Lewis's Digest of the Laws of Pennsylvania, vol. 3, p. 5245.

CH. XIII. STORE DETECTIVES

There are two types of employment in which private detectives are engaged in connection with stores generally. There is the work which restricts them to surveillance of persons entering stores, such as shoplifters and petty thieves. These agents are usually members of the store's protection department and have the power of arrest for offenses committed in their presence on the premises of the employing store. In some instances, however, their chief duty is to locate and identify offenders, to apprehend them as they attempt to leave the store, and to recover the goods or effect payment, rather than to arrest them and turn them over to the city police.

The other type of work undertaken by agencies necessarily involves investigatory work by a staff not on the pay roll of the store, and generally, except on sales and holidays, not engaged exclusively in criminal detection. Their main duties are the detection of inefficiency and delinquency on the part of sales clerks. These outside "shoppers," as they are known, are employees of detective agencies specializing in department store service. The largest agency engaged in this type of work is the Willmark Service System, Inc., which operates in practically all the larger cities in the United States, and does not undertake any crime investigation or claim work, although evidence of theft by employees is sought and reported.

Store protection departments

At this time an attempt will be made to set forth the organizational and functional set-up of a department store protection department, restricting the examination to the operation of such a department where all operatives are employees of the store. Needless to say, the employment of outside agencies to discover thefts by employees is integrated with the work of the store protection department. In the Philadelphia department stores the protection department is headed by a manager who usually has the power to add to the staff as required, and also to discharge operatives. This department is closely related to the store manager's office, in some cases making regular reports to the store manager. The supervision of store operatives and their pro-

motion falls within the scope of the manager of the protection department.

In adding operatives to the staff no consistent plan is followed. In some cases, members of other departments are transferred to the protection department, just as older employees are likely to be used as watchmen. In the event, however, that none of the other employees is acceptable, the manager of the protection department may hire qualified operatives. The prospective operative fills out the prescribed form, which calls for a detailed analysis of previous employment, residence, nationality, education, salaries, reference, and so forth. His references are then checked by the store. If there appears to be a good reason for employing him, the Police Department is requested to commission him as a special policeman for one year. The chief clerk of the Police Department receives the request and notifies the Detective Division of the Police Department, which investigates the references and attempts to secure all the available information before the police power is granted. If the investigation reveals nothing unfavorable to the applicant, he is notified and appears before the chief clerk, pays a fee of one dollar, and is sworn in as a special policeman, receives a badge, and is empowered to make arrests on the property of the employing store.

Since such police power is restricted in its use to offenders against the employing store or on the property of the employer, it will readily be seen that the operative becomes in reality a watchman, and is so classified in the records of the Police Department; but because his duties are more than simply guarding the property, he is included here under the title of "store detective." Furthermore, since agency men without police power are regularly employed in such work, the term "watchman" would hardly connote the type of officer he is.

As suggested above, the particular duties of these special police are to circulate through the store and observe the behavior of customers, and particularly to be on the alert for pickpockets, shoplifters, and thieves. In some of the larger stores, photographs of known offenders are on file. The store detectives are expected also to keep the store free of persons annoying customers, and in these latter days to eject panhandlers. In some cases they are uniformed, but for the most part they are in plain clothes, for obvious reasons.

If a customer is discovered stealing goods from any department of the store, the usual procedure is to trail the suspect, and unless the person is known as a kleptomaniac or a "forgetful" customer who regularly takes goods, in which case a bill is sent the first of

the month, the operative does not disturb him until he attempts to leave the store, at which time he is asked to step "upstairs" and is relieved of the stolen goods and advised to mend his ways. Store officials seem agreed that very often the customer does not intend to steal, but has merely "overlooked" the little detail of payment. Since the goods are recovered or the "mistake" rectified, the customer is allowed to go unmolested. If, however, confederates are used, as in the case of goods taken to the women's retiring rooms and there passed to a "friend," and vigorous denial is entered against the operative's charge, the offender is arrested and turned over to the municipal authorities. But generally speaking, the policy of large department stores is not to arrest or to prosecute. The following excerpt from a letter from the store manager of one of Philadelphia's largest department stores will illuminate the policy toward suspected or apprehended offenders:

> No employe of the store is allowed to apprehend a suspect but they are instructed to call on a special signal which we have for an operative from the Protection force to handle the situation. The policy of the store generally is not to prosecute. We feel that we have been very successful, especially with first offenders, in handling the cases ourselves and a follow-up in many cases proves the wisdom of this method of procedure. Especially is this true with the younger element who perhaps have erred, and the influence which we exercise results in straightening out their thinking and molds their future actions toward the making of better citizens.

As a rule, stores do not employ any of their regular personnel to check the sales force or other employees, but rather procure the services of an agency specializing in store "shopping." The obvious advantage lies in the fact that less chance exists to discover the "spotter" if he is a stranger making an ordinary purchase, and more so since the policy of the agency contemplates several different shoppers for the same clerk or store.

The protection department of the store employs a regular staff, but the number, as suggested earlier, varies with the season, the volume of business, and the general policy of the store. The four leading department stores of Philadelphia regularly employ the following number of operatives: Wanamaker's, 15; Lit Brothers, 10; Gimbel Brothers, 9; Strawbridge & Clothier, 7.[1] As might be expected, a majority in each store are women, for the reason that women exceed men as customers, and because of the obvious difficulties which men encounter in searching female suspects.

[1] These figures were secured through the kindness of Mr. Howard Lowenthal.

The salary range is from $20 to $40 per week, but it is probable that the greater number do not receive more than $28 per week at the present time. At such a weekly rate, the total cost per year for the four stores listed would be approximately $60,000, to which $20,000 may be safely added for extra private agency men for specific times and purposes. If such a base rate is substantially correct, it is likely that private detective protection will amount to about $500,000 a year, exclusive, of course, of watchman service. In this estimate, which the writer regards as conservative, the "card" protection described earlier is included.

Shopping service

Although the Pinkerton and Burns agencies, as well as a number of smaller local agencies, are employed by business houses to check employees, this work is largely incidental, and at all events does not constitute the major part of their business. Since this is so, they will not be discussed in this connection, but attention will be directed to the Willmark Service System, which specializes in store, theater, and hotel work. This Service in all probability handles the greatest number of store accounts in Philadelphia, as well as the largest stores.

Although the Willmark Service cannot be regarded as a detective agency in the same sense as the Pinkerton or the Burns agency, because of the restricted nature of its work, it, too, must secure a license exactly as other agencies do in order to carry on such work in Pennsylvania. Legally this Service is a private detective agency, when the judicial definition with reference to securing "secret information" is recalled.

Briefly, the Service is organized the same as any large detective agency. The headquarters are located in New York City, with branch offices in other cities. Each branch office is supervised by a manager, who reports weekly to the main office the volume and the character of the work done. On a status almost comparable to that of the manager is a solicitor, who travels seeking new accounts. Each office has several crews under crew leaders, who instruct and supervise "shoppers" in the field. There is the usual office staff for filing records, preparing reports, and other office routine work. Both men and women shoppers are employed, most of whom are young because of the tremendous physical exercise and the long hours involved. The cost of this shopping service is determined by the number of checkings per store per month.

The actual checking may be described as follows: A shopper reports for assignment and is provided with funds. He visits

a store and makes a purchase, for which he pays cash. While the purchase is being made the shopper notes the general conduct of the salesclerk, the salutation, the amount rung up in the cash register, whether a sales check was given the shopper, the length of time required, suggestions by the clerk, and so forth. All these details are carefully entered in the shopper's report, which is handed in to the office and transmitted to the store. The purchased goods are returned to the store and the purchase price is refunded. Ordinarily shoppers lose much of their value after a month or two in any district, and are transferred to another office.

The shopper, in checking the salesclerk, uses several different types of "buys": (1) identification; (2) single; (3) double; and (4) combination. The first purchase is for the purpose of identifying the clerk, which is done by reference to the number on the sales slip. For this purchase "uneven" money or more than the exact price is paid. The "single" purchase is an ordinary sale involving "even" money or the correct amount charged.[2] In the "double," the shopper purchases an article and pays uneven money, then suddenly decides to buy a second article for which even money is paid. This is the most difficult to negotiate, and only experienced shoppers are able to accomplish this type of purchase without arousing suspicion. Most of the detections of dishonest employees result from the "double." The "combination" consists of purchasing two different articles and paying even money, both articles costing the same amount. This offers an opportunity to the clerk to record but one sale and pocket the amount of the other.

In cases where a clerk is "hot," i.e., suspected, a "follow-up" is employed. Three purchases are made in which the exact amount is paid. A fourth purchase, known as "follow-up," is made, and in this case more than the amount charged, or uneven money, is paid. Thus, if the use of even money fails to reveal dishonesty, the use of uneven money is likely to reveal it if it is being practiced. It may be seen that every opportunity is given the dishonest clerk to make a "mistake." The clerks are fully aware that they are being supervised; in fact, the Willmark Service keeps them constantly informed that the most innocuous customer may be a shopper. Nevertheless, the shopping service is constantly "catching" thieving clerks.

When a shopper detects a clerk failing to record the correct amount, he calls the clerk aside and "questions" him. Each shopper is provided with a red card bearing his name, picture,

[2] "Even" money is referred to as "marked" money.

description, and seal of the Service. In addition, a blue card is furnished by the client store to crew leaders or supervisors. By means of these the Willmark shopper identifies himself and gains access to the cash register tape, for checking purposes. No arrests are made by the shoppers, but complete "questioning" is reported to the store management by the Service.

In the case of theaters the Service employee buys a ticket to a regular performance in a motion-picture house. The behavior of the ticket seller is noted, but perhaps more important is the action of the ticket-takers and ushers. Failure on the part of the ticket-taker to tear the ticket in half in the presence of the customer is a violation of rules. Tickets are frequently resold at less than box office prices, which indicates the necessity for the rule.

Through a rather extensive pamphlet literature, the Willmark Service attempts to keep clients informed as to the best methods of increasing sales and reducing losses through shortages, thefts, acts of discourtesy, and the general appearance of goods and the interest displayed by salesclerks. It would appear that there are two types of service contemplated: (1) constructive, i.e., service which increases sales through better merchandising methods; and (2) preventive, i.e., service looking towards decreasing losses incurred through dishonesty or inefficiency. According to some of the shoppers of the Service, both the instructions given and the methods actually used are regarded by the Service and its clients as educational and informational rather than detective in character.

In addition to checking dishonest employees, "service surveys" are conducted. For example, stores engaged in retailing the same type of goods—millinery shops—will be checked by a Service shopper, not for the purpose of making a purchase but to observe the general conduct of the salesclerks. This involves the well-known practice of comparing, which is repeatedly done by women. Several hats, for instance, are tried on and the prospective customer is not satisfied. She leaves the store without buying; but while apparently engaged in a purchase, the salesclerk's number is secured for identification. As often happens in stores where clerks are on commission, the conduct of a clerk who has spent considerable time with a prospective hat buyer and has failed to sell to her, is likely to be far from exemplary. This type of service falls into the category of "constructive."

As in the case of the department store's staff, salaries for shoppers rarely exceed forty dollars per week. Executive positions, crew managers or supervisors, and solicitors receive more, but these presuppose apprenticeships as shoppers.

Conclusion

In the present section an attempt has been made to present only the information with reference to private detectives that could be validated. The methods of private detectives have not been described, for the simple reason that private detectives simply do the obvious when a case is to be investigated.[3] This is also true of public police. Essentially this amounts to securing all available information, by whatever means possible, and then transmitting a report to the client. Several schools for private detectives have sent the writer outlines of courses, describing methods. They are all the same, describing "shadowing," "roping," "impersonation," "tracing," "observation," and so forth, all of which, aside from the technical names, are so perfectly obvious that to report them here seriously would have little scientific value.

Certain conclusions may be suggested: Private detective agencies should either be abolished or placed under the control of the proper department of the State (as in the case of New York) and regular certified reports should be furnished the proper authorities describing the nature of the accounts investigated, and whatever other data the State required. All operatives and agencies should be visited and checked by the police department of the locality in which the agency is located, and no operative should be employed who is not approved by the police department. No agency conducting a legitimate business could object to such regulations, and those that did object should be discontinued in the interest of public decency. This would mean that collusive agencies and double-crossing union busters would disappear. If this should happen, private agencies continuing in business would be given the respect and support they deserve, but which they cannot now receive.

[3] See Sutherland, E. H., *Criminology,* Philadelphia, 1924, p. 205.

For a discussion of methods, see Fricke, C. W., *Criminal Investigation,* Los Angeles, 1930, Ch. XIV, and pp. 52-53; O'Sullivan, F. Dalton, *Enemies of the Underworld,* Chicago, 1917; *ibid., Lectures on Preparatory Scientific Detective Instruction,* Chicago, 1922; Manning, E. W., *Practical Instruction for Detectives,* Chicago, 1921; Kennedy, R. E., *Practical and Scientific Policing,* Baltimore, 1930, pp. 167–168; Matheson, D., "The Technique of the American Detective," *The Annals,* Nov. 1929, pp. 214–218; *New York Times,* Dec. 3, 1922, Sec. IX, p. 5, col. 1; Fuld, L. F., *Police Administration,* N. Y., 1909, p. 238; Beet, T., "Methods of American Private Detective Agencies," *Appleton's Magazine,* 8:439–445 (Oct. 1906); *The Detective* (a monthly magazine), comment by the editor, Al Dunlap, in issue of January 1930; *New York Times,* June 15, 1919, Sec. II, p. 3, col. 1; Willemse, C. W., *Behind the Green Lights,* N. Y., 1931, *passim;* Fiaschetti, M., *You Gotta Be Rough,* N. Y., 1930, *passim;* Dunbar, R., *The Detective Business,* Chicago, 1909, p. 6; Dorey, J. J., *The Business Man's Private Investigator,* N. Y.: J. J. Dorey, 1923; White, G. M., *From Boniface to Bank Burglar,* N. Y., 1907.

PRIVATE PATROLMEN

CH. XIV. THE WATCHMAN

This chapter will discuss a variety of private police who are legally described as watchmen but who are not necessarily engaged for the exclusive purpose of "watching" as the term is generally understood. The functions of the watchman range from carefully noting the appearance and behavior of each person, as in the case of bank guards, to "waking up the milkman," as in the case of the private patrolman. Territory patrolled varies from the policing of a single building to patrolling the shores of a lake to prevent poaching in private fish preserves.

In the State of Pennsylvania the delegation of police power to these special police depends upon the statute creating them. For example, private watchmen for establishments in Philadelphia are licensed by the Bureau of Public Safety; those employed by the Boy Scouts of America are commissioned by the State, exactly as are railroad police; cemetery watchmen are appointed by officers of "organized cemeteries," and must subscribe to the oath of office before a justice of the peace; occupants of real estate in cities and boroughs may apply to the court of quarter sessions, and if such application is approved by the court, the power granted the watchman is that of constables or police in the same locality; the county court of common pleas may appoint watchmen with constable police power for camp meeting associations; special police may be appointed by "the board of managers or executive committee of any agricultural or horticultural society of Pennsylvania" to protect the property of the society and to preserve the peace during exhibitions; the mayor or burgess of any city or borough may appoint private police for a street passenger railway which operates in such city or borough.

It is not necessary to emphasize the diversity of agencies empowered by statute to delegate police power to individuals, such power to be identical with that of constables. With the exception of those organizations and establishments listed in the chapters on railroad police and coal and iron police, the empowering agency is either local or county. Regardless of the authority which commissions the watchmen or special police, the powers conferred are in every instance those possessed by constables, which means "general police powers," although with the exception of the State commissioned private police, these powers may be used only in con-

nection with the employer's business and on the property of the employer specified in the application.

Although no statutory mandate appears in the several laws (which will be presented in their entirety later) limiting the life of the license, the general rule followed is renewal at the end of one year. Fees for the license, for the subscription of the oath of office, and for the filing of the various documents are governed by the legally determined fees set forth in the legislative acts designating the amounts payable to the various officials.

Statutes governing the employment of watchmen

Postponing for the moment a discussion of private patrolmen in Philadelphia, who came into existence earlier (1870) than any of the following types, the first statute in this long series is the Act of April 9, 1873 "for the further protection of cemeteries in the State of Pennsylvania." Section 1 provides:

> That it shall be lawful for the trustees, directors or other officers of all organized cemeteries within this state, to appoint as many day and night watchmen of their grounds as they may deem expedient; and such watchmen, and also all of their superintendents, gardeners and agents, stationed on said grounds, are hereby authorized to take and subscribe before any mayor or justice of the peace in the township where such cemeteries may be situated, an oath of office, similar to the oath required by law of constables; and upon the taking of such oath, such watchmen, superintendents, gardeners and agents shall have, exercise and possess all the powers of police officers within and adjacent to said cemetery grounds; and they, and each of them, shall have power to arrest, on view, all persons engaged in violating the laws of this state in reference to the protection, care and preservation of cemeteries, and of the trees, shrubbery, structures and adornments therein, and to bring such persons so offending before a mayor or justice of the peace within such township, to be dealt with according to law.[1]

Inasmuch as these employees are granted constable police powers, it is probable that they are also permitted to carry the equipment generally used by constables. This is also true in the following statutes, which fail to make specific mention of power to carry guns, clubs, handcuffs, and so forth.

On March 23, 1876, Governor J. F. Hartranft approved the following act which empowered "camp meeting associations to employ a police force":

> Section 1. *Be it enacted, &c.*, That any association of persons owning or leasing ground for the purpose of holding camp meetings for religious purposes in this state, may apply to any judge of the court of common pleas of the county within which the said grounds or premises may be situated, to

[1] Laws of Penna., 1873, No. 45, p. 67.

appoint such person as the said associations may designate to act as policeman for said association.

Section 2. The said judge, upon such application, may appoint such person, or so many of them as he may deem proper, to be such policemen, and shall cause the fact of such appointment to be entered upon the records of the said court.

Section 3. Every policeman so appointed shall before entering upon the duties of his office, take and subscribe the oath required by the seventh article of the constitution, before the justice of the peace nearest to the grounds where the proposed meetings are to be held, and for which the said policemen are appointed; which oath shall be filed by the said justice of the peace among his papers, and a note made upon his docket of the fact of said oath having been taken.

Section 4. Such policemen, so appointed, shall severally possess and exercise all the powers of constables in this Commonwealth, in and upon and in the vicinity of the camp ground in which they shall be authorized to act as aforesaid; and the keepers of jails or lockups or station houses in any of said counties, are required to receive all persons arrested by such policemen for the commission of any offense against the laws of this Commonwealth, upon or near to the grounds occupied by the said association, to be dealt with according to law.

Section 5. The said associations shall have power to ordain and publish such regulations, not inconsistent with the constitution and laws of the state, as shall be needful to maintain the peace, good government and order, well-being and security of the association; and the policemen appointed under this act shall have, when on duty upon the camp ground and premises of the association, power to enforce obedience, on such grounds and premises, to such regulations so ordained and published, and to detain offenders for a period not exceeding twelve hours, exclusive of Sunday, until they can be carried before the nearest justice of the peace, alderman or judge having jurisdiction thereof, there to be fined, bailed or committed, as the magistrate hearing the case may determine.

Section 6. Such camp ground police shall when on duty, severally wear a metallic shield with the words "camp police" and the name of the association for which appointment [*sic*] inscribed thereon, and such shield shall always be worn in plain view except when employed as detectives.

Section 7. The compensation of such police shall be paid by the associations for which the policemen are respectively appointed, as may be agreed upon between them.[2]

This act was extended two years later to include "park, glen and pic-nic associations."[3]

It will be readily seen that the above act is far more comprehensive than the cemetery watchman act. In the latter act there is no mandate to keepers of jails to receive persons arrested, nor

[2] Laws of Penna., 1876, No. 9, p. 9. [3] *Ibid.*, 1878, No. 22, pp. 21–22.

do the cemetery watchmen appear to have a police status comparable to that of the camp police. It was not possible to learn of the existence of any camp police at the present time. It is likely that there are none in this State at the present time, since the development of modern police and the decline of revivals have both contributed to make them less necessary.

In 1881 corporations organized under the laws of Pennsylvania for the preservation and propagation of fish were empowered by statute to employ State commissioned police:

Section 1. *Be it enacted, &c.*, That any corporation, organized under the laws of this commonwealth for the preservation and propagation of fish in this commonwealth, may apply to the governor to commission such persons as the said corporation may designate, to act as policemen for the protection of the property of such corporation.

Section 2. The governor, upon such application, may appoint such persons, or so many of them as he may deem proper, to be such policemen, and shall issue to such person or persons so appointed a commission to act as such policemen.

Section 3. Every policeman so appointed shall, before entering upon the duties of his office, take and subscribe the oath required by the eighth [4] article of the constitution, before the recorder of the county in which the property of said corporation may be situated, which oath, after being duly recorded by such recorder, shall be filed in the office of the secretary of state, and a certified copy of such oath, made by the recorder of the county, shall be recorded with the commission in the county in which the property of such corporation, for which such policeman is appointed, may be situated and in which it is intended said policeman shall act; and such policemen so appointed shall severally possess and exercise all the powers of policemen in the county in which they shall be so authorized to act as aforesaid, and the keepers of jails and lock-ups or station houses in said county are required to receive all persons arrested by such policemen for the commission of any offense against the laws of this commonwealth upon the premises of any such corporation, to be dealt with according to law.

Section 4. Such corporation police shall, when on duty, severally wear a metallic shield with the word "police" and the name of the corporation, for which appointed, inscribed thereon, and said shield shall always be worn in plain view, except when employed as detectives.

Section 5. The compensation of such police shall be paid by the corporation for which the policemen are respectively appointed, as may be agreed upon between them.

Section 6. Whenever any corporation shall no longer require the services of any policeman as aforesaid, they may file a notice to that effect under their corporate seal, attested by their secretary, in the office where the commission of such policeman has been recorded, which shall be noted by the recorder upon the margin of the record where such commission is

[4] See pp. 61–62 for comment on the inaccuracy of this article.

recorded, and thereupon the power of such policeman shall cease and be determined.[5]

In February 1933, there were twenty policemen commissioned under the above act, for the following organizations: Blooming Grove Hunting and Fishing Club, 7; Parkside Angling Association, 4; Tunkhanna Fishing Association, 2; The Forest Lake Club, 1; Bright Creek Park Association, 1; Brodhead's Forest and Stream Association, 1; Brodhead Fly Fishing Club, 1; Paradise Brook Trout Company, 1; The Swiftwater Preserve, 2.[6]

On April 26, 1883 Governor Robert E. Pattison approved an act for "the protection of agricultural and horticultural societies," which is reproduced below:

Section 1. *Be it enacted, &c.*, That the board of managers or executive committee, of any agricultural or horticultural society of this State, is hereby authorized to appoint as many citizens of this State, policemen, as shall be necessary for their exhibitions, whose duty it shall be to preserve order within and around the grounds of said society; protect their property within said grounds; to eject all persons who shall be improperly within the grounds of said society, or who shall be guilty of disorderly conduct, or who shall neglect or refuse to pay the fee or observe the rules prescribed by said society; said policemen shall have the same power the time said exhibition shall continue, that a constable may have by law, in serving criminal process and making arrests, and in addition, may arrest any person for the commission of any offense, mentioned in section two.

Section 2. Any person, who shall willfully injure or destroy the property of exhibitors, visitors or lessees, on the fair grounds, or shall hinder or obstruct the officers and police in their duties, shall be deemed guilty of a misdemeanor, and upon conviction shall be subject to a fine not less than one, or more than twenty-five dollars, or imprisonment not exceeding thirty days, at the discretion of the court before whom the offender may be tried.[7]

In the above law the life of the authorization is clearly defined, but no mention appears of subscription of the usual oath, nor is the empowering agency a recognized political or judicial official or body, nor are keepers of jails required to receive arrested persons. However, the possession of the police powers of a constable would probably imply such a requirement upon such keepers. This law comes closer than the others cited above to the generally accepted and recognized form of watchman service.

Two years later (June 25, 1885) Governor Pattison also approved a bill "empowering the Governor of this Commonwealth to appoint special officers, or policemen for incorporated or unincorporated

[5] Laws of Penna., 1881, No. 108, pp. 101–102.
[6] Information furnished by the Secretary of the Commonwealth.
[7] Laws of Penna., 1883, No. 13, p. 14.

associations, heretofore or hereafter organized, for any charitable purpose."[8] This act is roughly comparable to the railroad and the coal and iron police acts, with the exception that the badge is to be inscribed "Special Officer" and bear the name of the association by whom the officer is employed.

Also, such police "have the right to exercise full power to arrest any person for the commission of any offense against the laws of this Commonwealth, upon warrant drawn by the proper officer in any county, in which he may be qualified to act. . . ." This clause raises a question as to the intent of the act. Nothing appears which would indicate that such police have the power to arrest on view, although the legislative intent would appear to have assumed such power. Obviously, police power restricted in exercise to warrants would, in a measure, negate "the right to exercise full power to arrest any person for the commission of any offense against the laws of this Commonwealth." Since this act, with these exceptions, follows closely the original coal and iron and railroad police acts, it is evident that comparable powers were intended to be conferred. It is likely, by implication at least, that these police have the same powers as constables, in the counties where their commissions are recorded, but this question has not been decided by the courts. The Governor is empowered to

> decline to appoint any such special officer or policeman, whenever the circumstances of the case, in his opinion, do not require the appointment to be made; and he may at any time revoke the commission of any such special officer or policeman, appointed under this act, notice of such revocation shall, however, be filed by the Governor in the office of the Secretary of the Commonwealth.

It should be noted that nothing in this act requires subscription of the constitutional oath, nor is there any citizenship requirement. Again, it is likely that such police as are commissioned *do* and *must* take such oath, and that they are citizens of the Commonwealth, even though the statute is silent on both points.

Under the above act fourteen policemen were employed in February 1933. The names of the organizations and the number of police follow: Women's Pennsylvania Society for the Prevention of Cruelty to Animals, 4; Northwestern Pennsylvania Humane Society, 1; Dixmont Hospital, 1; Philadelphia Council, Boy Scouts of America, 1; Western Pennsylvania Humane Society, 3; Philadelphia Housing Association, 2; Masonic Homes, Elizabethtown, Pa., 1; Harrisburg State Hospital, 1.[9]

On May 25, 1887, a supplement to the Corporation Act of 1874

[8] Laws of Penna., 1885, No. 134, pp. 167–168.

[9] Information furnished by the Secretary of the Commonwealth.

was passed[10] to empower associations for the prevention of cruelty to children and aged persons to incorporate and to petition the Governor for commissions for persons designated by the associations to act as policemen. These police have "all the powers of a policeman, in any county in which they may be directed by said corporation to act. . . ." Curiously, their powers of arrest are limited in a kind of reverse legal restriction: ". . . keepers of jails, lock-ups, station-houses, in any of said counties, are required to receive all persons *arrested by such policemen for the commission of any offense for the cruelty of children and aged persons*, and to be dealt with according to law." [Italics mine.]

If the italicized clause means anything (and as it stands it does not), it means that keepers, and so forth, may use their own discretion about receiving offenders not guilty of offenses related to the young and old. To say the least, either the legislature or the printer caused the publication of an act that means nothing. It may be that a typographical error accounts for the meaninglessness of this law. A comma after the italicized word *offense* may be the intent, but as it reads there is no way of knowing.

In 1895 watchmen of water companies were empowered to arrest without warrant any trespasser "upon his [their] own view of any such trespass."[11] This arrest power may be viewed as preventive, since the act contemplated each trespasser as a potential source of pollution to water in reservoirs, ponds, "or other artificial means for storing water."

Occupants of real estate in cities and boroughs were granted the right to employ night watchmen by the Act of June 26, 1895. The act is presented below:

> Section 1. Be it enacted, &c., That it shall be lawful for any number of persons owning or occupying real estate in any city, borough or township of this Commonwealth upon application to, and with the approval of the court of quarter sessions of the proper county, to employ a night watchman or night watchmen for the purpose of protecting their premises and property in the night time, and all persons so appointed, with the approval aforesaid, as night watchman shall have, exercise and enjoy all the rights, powers and privileges now vested by law in constables or police officers duly elected or appointed in said cities or boroughs: Provided however, That such night watchmen shall not exercise the power of serving subpœnas or any civil or other process: Provided, That in any city having a Department of Public Safety, all such applications shall be made to and granted by the Director of said department under such rules and regulations as may be adopted by said department.[12]

[10] Laws of Penna., 1887, No. 151, pp. 265–266.
[11] *Ibid.*, 1895, No. 131, pp. 231–232.
[12] *Ibid.*, 1895, No. 248, pp. 333–334.

The intent of this act is geographic restriction of police power to the property being protected, but again it is likely that the meaning of "protecting their premises" may involve police power "in connection with" protecting such property and hence include off-the-premises arrests. These watchmen are of the type with which every one is familiar.

The Act of June 7, 1901, provides for the commissioning of private policemen to be employed by street railway companies. This statute confers upon mayors, burgesses, and justices of the peace, as the case may be, the power to commission such police. The act appears below:

Section 1. Be it enacted, etc., That any corporation, chartered under the laws of this Commonwealth as a street passenger railway, and owning or operating the same in said Commonwealth, may apply to the mayor of any city on the streets of which said railway is operated, or the burgess of any borough where said railway is being operated, or any justice of the peace residing in a township through which said railway shall run or pass over, to commission such person or persons as said corporation may designate to act as private policemen for said corporation.

Section 2. That said official, mentioned in section one of this act, upon such application, may appoint such persons, or so many of them as he may deem proper, to be such policemen, and shall issue to such person or persons so appointed a commission to act as such policemen.

Section 3. Every policeman shall, before entering upon the duties of his office, take and subscribe the oath required by the seventh article of the constitution, before the recorder in the county in which he was appointed; which oath, after being duly recorded by such recorder, and a certified copy of such oath, made by the recorder of the county, shall be recorded, with the commission, in the county in which such policeman was appointed, and in which it is intended such policeman shall act; and such policemen, so appointed, shall severally possess and exercise all the powers of policemen in the county in which they shall be so authorized to act, as aforesaid; and the keepers of jails and lock-ups in station houses in said county are required to receive all persons arrested by such policemen for the commission of any offense against the laws of this Commonwealth, upon the cars or premises of any such corporation, to be dealt with according to law.

Section 4. Such corporation police shall, when on duty, severally wear a metallic shield, with the word "police" and the name of the railway corporation for which appointed inscribed thereon, and said shield shall always be worn in plain view, except when employed as detectives.

Section 5. The compensation of such police shall be paid by the corporation for which the policemen are respectively appointed, as may be agreed upon between them.

Section 6. Whenever any corporation shall no longer require the services of any policeman, as aforesaid, they may file a notice to that effect under their corporate seal, attested by their secretary, in the office where

the commission of such policeman has been recorded, which shall be noted by the recorder upon the margin of the record where such commission is recorded, and thereupon the power of such policeman shall cease and be determined.

Section 7. All acts or parts of acts inconsistent with this act are hereby repealed.[13]

In Philadelphia the number of such police commissioned by the Mayor (in reality, by the Department of Public Safety) and employed by the Philadelphia Rapid Transit Company is approximately five hundred. These are listed in the Department of Public Safety's records as watchmen. Their power is restricted to the premises, such as stations, car barns, garages, and so forth. Only those guarding money are armed. The watchmen are under the immediate supervision of dispatchers, while the entire protective organization ties into the Industrial Relations Department of the Transit company, with a vice-president in charge. Most of the guards are old employees "retired" to watchmen. These guards also act as checkers on the trolley cars. Application for employment includes submission of fingerprints and photographs, which are checked by the police department prior to the commissioning or the administration of the oath. The Intelligence Department of the Transit company also investigates the applicant. Watchmen or guards for this company are paid on an hourly basis and receive approximately $100 per month. Very few arrests are made by these private police, probably for the reason that with the exception of drunk and disorderly persons there is little necessity, and further, the city police are more likely to arrest offenders against such a company. There is no gradation of rank among the members of the protective group, all being simply guards or watchmen.

Private patrolmen

As mentioned earlier, private patrolmen were to be discussed after setting forth the information available with respect to other types of watchmen. On April 26, 1870 Governor John W. Geary approved an act "to authorize the private patrol and watchmen to be commissioned by the Mayor of Philadelphia to perform police duty within the prescribed limits in said city." On January 13, 1933 there were 304 private patrolmen in Philadelphia and 2,156 watchmen. The act governing their commissions follows:

Section 1. *Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania in General Assembly met, and it is hereby enacted by the authority of the same,* That any patrol or watchman selected

[13] Laws of Penna., 1901, No. 246, pp. 508–509.

and employed by and at the private expense of the residents or of persons doing business in any block or blocks, square or squares, or parts thereof, in the City of Philadelphia, for the purpose of protection to their property therein against loss by fire, theft or robbery, shall, upon filing with the Mayor of said city a certificate of such employment, the time for which he may have been so employed, and the bounds of the locality which they are required to watch, signed by the persons so employing him, whereupon, if the Mayor is satisfied that such person is qualified, by his integrity and vigilance, to perform such duty, he shall have authority to appoint and commission him as patrol or watchman for such locality, with all the powers of policeman, in respect to the arrest of all vagrants and persons found offending against the law within the bounds of said locality; and all vagrants and offenders arrested by such patrol or watchman shall be received and held in custody at any police station, in like manner as if the arrest had been made by any policeman of said city; such patrol or watchman, when on duty, shall have authority to carry and use, when necessary, the usual implements of policemen for alarm, arrest and defense, and shall respond to the signals of policemen within the limits of their said locality, in making arrests and performing needful duty, but shall not be required to leave their said locality; and policemen shall in like manner respond to the signals of such patrol or watchman, and give him all needful aid in making arrests and protecting property within the limits of said locality; nothing in this act contained shall authorize any expenditure or liability whatever against the City of Philadelphia.[14]

While both private patrolmen and watchmen are regarded as practically the same type of private police, there is a real difference functionally between them. Private patrolmen might be described as identical with municipal patrolmen except that they are employed and compensated by private employers. The duties of these ambulatory watchmen are defined by the persons who pay them. The following regulations indicate their relation to the Philadelphia Police Department and the legal and moral requirements:

205. By acts of assembly approved April 26, 1870, June 26, 1895, and June 25, 1919, the Director of Public Safety has power to appoint, regulate and commission all private watchmen serving or acting as such in the City of Philadelphia.

206. No person shall be commissioned as a private watchman who is not a citizen of the United States, who has been convicted of crime unless pardoned, who cannot read and write understandingly the English language or who shall not have resided within the State at least one year preceding his commission.

207. Every person desiring to act as a private watchman shall make written application for a commission by filing with the Department of Public Safety, a certificate signed by the persons who are residents or are doing business within the boundary of the location they have employed

[14] Laws of Penna., 1870, No. 1166, pp. 1269–1270

him to watch, this said certificate must give the address of all persons who have signed their name, and the hours watchman will be on duty.

208. Every applicant for commission of private watchman shall report to the Captain of Detectives to arrange for his identification card, which must be carried at all times when he is on duty and must be shown to any member of the Bureau upon request.

Every application for commission of private watchman shall be forwarded to the Captain of Detectives and then to the Commanding Officer of the Police District, wherein said watchman is applying for a commission. The above officers shall make investigation of all applicants and the certificate, and forward report with their approval or disapproval of said watchman before the commission is issued.

209. Every person commissioned to act as private watchman shall have authority to arrest all vagrants, and persons found offending the law within the bounds of said commission. He shall when on duty have authority to carry and use, when necessary, the implements of policemen for alarm, arrest and defense, and shall respond to the signals of policemen to aid in making arrest and performing needful duty. He shall be subject to and obey the orders and rules of the Bureau and conform to the general discipline and special regulations of the Bureau of Police.

210. A private watchman shall not exercise the power of serving subpœnas, or any civil or other process, and shall not appoint any deputy, nor hire any assistant until said deputy or assistant shall have been approved by the Director of Public Safety, except he may nominate a citizen to act for him temporarily in case of sickness, but said substitute must be approved by the District Commander, before he is permitted to act as substitute watchman and said substitute shall have no authority other than as a private citizen.[15]

Any person may undertake private patrol work, provided there is no legal bar, if he secures a sufficient number of property owners to sign his petition for commission. The rate of compensation is agreed upon by the property owners and the private patrolman. On the next page is reproduced the petition now in use.

The police department checks the signatures submitted and also makes inquiry as to the character of the applicant. After being sworn in, the police department furnishes a key to the police box of the district and a badge engraved "District Watchman." The badge is returned when the commission expires, the commission being for a period of one year unless it is renewed. Some of these patrolmen are uniformed, but as a general rule they are in plain clothes.

These private police not only supplement the city police but also relieve them of the necessity of policing such areas as thoroughly as they would be required to do if no private police existed. It is

[15] *Rules and Regulations. Bureau of Police, Philadelphia.* Issued by the Department of Public Safety, pp. 49–50.

DEPARTMENT OF PUBLIC SAFETY
BUREAU OF POLICE
PHILADELPHIA

.....

.....

Director, Department of Public Safety.

Dear Sir:

We, the undersigned residents of territory hereafter mentioned, do hereby request that you commission .....
residing .....
in the City of Philadelphia, as a Private Patrolman to watch our property for the purpose of protection against loss by theft, robbery or fire at the private expense of the residents or of persons doing business in any block or blocks, square or squares, or parts thereof, in the City of Philadelphia.

Territory from .....
to .....

Name	*Address*

evident that the latter represent the convictions of property holders that such protection as that furnished by the public police is insufficient. They are definitely for the extra protection of the subscribers. The territory is ordinarily four blocks long and four blocks wide. In congested or business sections the area is smaller. Usually the patrolling consists of touring the area, trying doors, watching vacant houses, "waking up the milkman," closing windows, and so forth. The number of arrests made by such police will not exceed one per cent of the arrests made during any year. There is no way to discover the exact number of arrests made by them, since no separate statistics are recorded. These arrests are incorporated in precinct arrest books along with all others.

The cost depends upon the amount the private patrolmen can secure from subscribers. It is likely that the average number of subscribers per patrolman will not exceed fifty, at an average weekly charge of fifty cents, thus giving a weekly wage of $25.00, or, for the 304 private patrolman, an annual charge of approximately $395,200 for this extra police service. Adding to this amount the 2,156 watchmen at an average weekly wage of $22.00, or $2,466,464 per year, this makes a total cost of at least $2,861,664 per year for the City of Philadelphia. It may be that $22.00 per week for watchmen is too high, but it is fairly certain that $25.00 per week is too low for private patrolmen. If the estimated $500,000 per year for private detectives is added to this amount, the

total will reach at least $3,361,664 per year for extra police protection for Philadelphia alone. "The total net cost of the police in England and Wales in 1926–27 was approximately £20,000,000."[16] It is likely that *private* protection in the United States each year costs more than the total police bill in England and Wales.

Conclusions

There are few conclusions to be drawn with respect to watchmen beyond the observation that the diversity of the empowering agencies in the State of Pennsylvania makes for chaos and lack of uniformity. It is painfully evident that even in cities, private citizens do not place too great confidence in the public police as they function in our present system. It is a sad commentary on contemporary police work and the general conduct of contemporary society that more than $3,000,000 must be expended annually for private protection in a city the size of Philadelphia. It might be suggested that in the interest of efficiency all watchmen and other private police discussed be placed under a department of the State, as suggested for the control of private detectives. Such an arrangement would go far toward restricting the jurisdictional atomism which appears to have been characteristic of private police legislation thus far. It would mean a unified and continuous police organization for the State, and would eliminate the decentralized and independent police units of the present time.

[16] *Report of the Royal Commission on Police Powers and Procedure*, p. 141.

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